

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X	
CHAOHUI TANG, JIANLIN LI,	:
JIAN LIU, AND QINGZE LIU, ON	:
BEHALF OF THEMSELVES AND ALL	:
OTHERS SIMILIARLY SITUATED,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
WING KEUNG ENTERPRISES,	:
INC., KEUNG CHAN, JOHN DOES	:
#1-10, AND JANE DOES #1-10,	:
COMPANY ABC #1-10,	:
	:
Defendants.	:
- - - - - X	

14-CV-390(JBW)(LB)

United States Courthouse  
Brooklyn, New York

Monday, June 1, 2015  
3:00 p.m.

TRANSCRIPT OF CIVIL CAUSE FOR EVIDENTIARY HEARING  
BEFORE THE HONORABLE LOIS BLOOM  
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

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A L S O     P R E S E N T :

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Proceedings recorded by computerized stenography. Transcript  
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*Colloquy*

3

1 (In open court.)

2 COURTROOM DEPUTY: All rise. The United States  
3 District Court for the Eastern District of New York is now in  
4 session. The Honorable Lois Bloom is now presiding.

5 (Honorable Lois Bloom takes the bench.)

6 COURTROOM DEPUTY: Calling civil cause for  
7 evidentiary hearing in Docket No. 14-CV-390, *Chaohui Tang,*  
8 *Jianlin Li, Jian Liu, and Qingze Liu, on behalf of themselves*  
9 *and all others similiarly situated against Wing Keung*  
10 *Enterprises, Inc., Keung Chan, John Does #1-10, and Jane Does*  
11 *#1-10, Company ABC #1-10.*

12 Counsel, please note your appearances for the  
13 record.

14 MS. YOU: For the plaintiff, Chaohui Tang, Jianlin  
15 Li, Jian Liu, and Qingze Liu, on behalf of themselves and all  
16 others similiarly situated, Heng Wang & Associates, P.C. by  
17 Aihong You.

18 Good afternoon, your Honor.

19 MS. SPINDLER: For the defendant, Wing Keung  
20 Enterprises, Inc., Keung Chan, John Does #1-10, and Jane Does  
21 #1-10, Company ABC #1-10, Tropp Spindler LLP by Gail E.  
22 Spindler.

23 Good afternoon, your Honor.

24 THE COURT: Good afternoon. Please be seated.  
25 Before we get started, Mr. Interpreter.

*Colloquy*

4

1 THE INTERPRETER: Yes.

2 THE COURT: I want you to interpret everything.

3 THE INTERPRETER: Yes.

4 THE COURT: From the calling of the case.

5 Everything, okay?

6 THE INTERPRETER: Okay.

7 THE COURT: Thank you.

8 THE INTERPRETER: We have a little problem because  
9 that machine is not working.

10 THE COURT: What machine is not working? We don't  
11 need the headphones, you can use the microphone. There's a  
12 microphone right here.

13 THE INTERPRETER: But I will be interfering with  
14 you.

15 THE COURT: You will do it consecutively.

16 THE INTERPRETER: Okay.

17 THE COURT: Let's get going.

18 COURTROOM DEPUTY: Civil cause for hearing, Docket  
19 No. 14-CV-390. Tang et al. versus Wing Keung Enterprises, et  
20 al.

21 MS. YOU: Mandarin Chinese, not Cantonese.

22 THE COURT: Do we need to start over?

23 MS. YOU: That's fine.

24 THE COURT: I want your client to understand what's  
25 going on.

*Colloquy*

5

1 Let's call the case again.

2 COURTROOM DEPUTY: Civil cause for evidentiary  
3 hearing, Docket No. 14-CV-390. Tang, et al. versus Wing Keung  
4 Enterprises, et al.

5 Will the parties please state your name and spell  
6 them for the record.

7 MS. YOU: Aihong You for the plaintiffs.

8 MS. SPINDLER: Gail Spindler on behalf of the  
9 defendants.

10 COURTROOM DEPUTY: We have an interpreter present.  
11 Could the interpreter please state his name for the  
12 record.

13 THE COURT: State your name, please.

14 THE INTERPRETER: John Lau, L-a-u.

15 COURTROOM DEPUTY: Please raise your right hand.

16  
17 JOHN LAU, having been first duly sworn by the Clerk of the  
18 Court to interpret the proceedings from  
19 English to Mandarin and from  
20 Mandarin to English as follows:

21  
22 THE INTERPRETER: Yes, I do.

23 COURTROOM DEPUTY: The Honorable Lois Bloom  
24 presiding.

25 THE COURT: Good afternoon. This case is on for an

*Colloquy*

6

1 evidentiary hearing to address plaintiffs' allegation that  
2 defendant's time keeping records are falsified. It's  
3 important that you understand these proceedings, plaintiffs,  
4 so if you don't understand something that's been said, please  
5 raise your hand so I know you didn't understand and I'll have  
6 the interpreter repeat whatever you didn't understand.

7           Also, these proceedings are being transcribed, and  
8 because we only have one interpreter for all of the witnesses,  
9 we're going to have to give the interpreter a chance after  
10 each sentence to interpret.

11           Did you understand everything that the interpreter  
12 just said?

13           Okay. So let's proceed.

14           As evident from the papers that have been submitted  
15 to the Court, the time records play a central role in  
16 plaintiff's motion to certify a collective action. Your  
17 attorney, plaintiffs, has alleged that you were all subjected  
18 to a practice of moving the machine that clocks your time.

19           And, at the last conference, I held the plaintiffs'  
20 motion for preliminary certification of a collective action I  
21 held it in abeyance pending this hearing. So we are going to  
22 have a hearing today on the issue of whether the time records  
23 were falsified.

24           Does either lawyer have any issue that needs to be  
25 addressed before we call the first witness?

*K. Jun - Direct/Ms. You*

7

1 MS. YOU: No, your Honor.

2 MS. SPINDLER: No, your Honor.

3 THE COURT: Okay. Plaintiffs, call your first  
4 witness.

5 MS. YOU: I'm going to call the plaintiff, Kong Jun  
6 first.

7 THE COURT: Plaintiff Kong Jun?

8 MS. YOU: Yes.

9 THE COURT: Please come forward.

10 (Witness takes the witness stand.)

11 COURTROOM DEPUTY: State your name.

12 THE WITNESS: Kong Jun.

13 COURTROOM DEPUTY: Raise your right hand.

14

15 **KONG JUN**, called by the Plaintiffs, having been first duly  
16 sworn/affirmed, was examined and testified as  
17 follows:

18

19 THE WITNESS: Yes, I swear.

20 THE COURT: Thank you. Please be seated.

21 Ms. You, go ahead.

22 MS. YOU: Should I stand here?

23 THE COURT: You're fine where you are.

24 **DIRECT EXAMINATION**

25 **BY MS. YOU:**

*K. Jun - Direct/Ms. You*

8

1 Q Mr. Jun, this is an evidentiary hearing regarding the  
2 defendant in this case falsification of employment records.

3 THE INTERPRETER: Can she sit down and speak into  
4 the mic?

5 THE COURT: You don't need to make a prelude, just  
6 ask your question.

7 THE INTERPRETER: If she can sit down.

8 THE COURT: Go ahead, you can sit down, Ms. You.

9 EXAMINATION BY

10 MS YOU:

11 (Continuing.)

12 Q So Mr. Jun, tell me from what period of time you work for  
13 the Wing Keung Enterprises, the defendant in this case.

14 A Starting from December 25, 2013.

15 Q And what time?

16 A 2012 or 2013, I'm not sure.

17 Q When did your employment end?

18 THE COURT: Wait. You have to get clarification on  
19 the first point. When did he work there?

20 So he started when?

21 THE WITNESS: 2012. This is 2015, right? This is  
22 2015 or '16. Then it's 2013.

23 THE COURT: From December 25, 2013?

24 THE WITNESS: Until December 25th.

25 THE COURT: Until when?



*K. Jun - Direct/Ms. You*

9

1 Mr. Interpreter, you have to tell me exactly what  
2 he's saying.

3 THE WITNESS: He's saying when it's 2015 then it's  
4 2012.

5 THE COURT: This is 2015, sir.

6 THE WITNESS: Then I started on December 25, 2012.

7 THE COURT: And when did he stop working?

8 THE WITNESS: On January 22, 2015, I was injured at  
9 work.

10 THE COURT: Continue.

11 EXAMINATION BY

12 MS. YOU:

13 (Continuing.)

14 Q What was your pay during employment with Wing Keung?

15 A I started from 1,500 a month.

16 Q Then what was the pay afterward?

17 A I started on the 15th, I only worked four days 'till the  
18 end of the month. I'm nervous. I'm sorry, I don't remember  
19 the dates. I'm so nervous. I started working at Wing Keung  
20 on February 25, 2013.

21 Q I understand. I'm sorry you are nervous. If you  
22 don't --

23 THE COURT: Wait. I need some clarification here.  
24 February 25th of what year did he start working?

25 THE WITNESS: February 25, 2013.

*K. Jun - Direct/Ms. You*

*10*

1 THE COURT: So the earlier date he gave of December  
2 25, 2012, is incorrect?

3 THE WITNESS: I'm still confused. No, I'm still  
4 confused about it. It was February 25, 2012.

5 THE COURT: Ms. You, did you prepare your witnesses  
6 today?

7 MS. YOU: I did review some documents with him but  
8 sometimes the date is difficult because kind of long time,  
9 three, four years.

10 THE COURT: Can you translate what she's saying? I  
11 just asked one question.

12 MS. YOU: Right.

13 THE COURT: Did you prepare your witnesses.

14 MS. YOU: Yes.

15 THE COURT: Stop. Thank you. Okay. Next question.

16 EXAMINATION BY

17 MS. YOU:

18 (Continuing.)

19 Q I understand this happening, like, three years ago. If  
20 you don't remember --

21 THE COURT: No. I don't want you to testify, I want  
22 you to ask questions.

23 MS. YOU: I just want to --

24 THE COURT: No, that was what you were supposed to  
25 do before you came to the Court.

*K. Jun - Direct/Ms. You*

*11*

1 MS. YOU: I understand.

2 Q So, tell me, after you were paid 1,500, what was your pay  
3 thereafter?

4 A Second month, 1,600. Third month, 1,700.

5 Q Was there any increase afterward?

6 A Fourth month, 1,800. And then the fifth month 1,900.

7 Q What was the highest pay you received before you  
8 terminated employment with Wing Keung?

9 A 2,800.

10 Q Could you describe your job duties during your employment  
11 with Wing Keung?

12 A I started as a miscellaneous worker and ended up as a  
13 driver.

14 Q Okay. Understood.

15 So let's talk about your first month's employment.

16 You said you worked there four days; is that  
17 correct, during the first month?

18 A The first month, yes.

19 Q You testified you were given 1,500 as a monthly rate for  
20 that first month; is that correct?

21 A They only paid me for four days, about \$250.

22 Q So could you tell me how this 250 calculate from?

23 A You know, 1,500 monthly salary. You deduct 20 days, you  
24 end up with four days.

25 Q Okay. I got it.

*K. Jun - Direct/Ms. You*

**12**

1 THE COURT: Excuse me, I didn't get that.

2 What does that mean?

3 MS. YOU: That means that he was paid on daily  
4 basis, like --

5 THE COURT: I don't want to hear from you, Ms. You,  
6 I want to hear from the witness. I didn't understand what he  
7 said. Can you ask another question to clarify.

8 MS. YOU: Sure. Okay.

9 EXAMINATION BY

10 MS. YOU:

11 (Continuing.)

12 Q Sorry, could you --

13 MS. YOU: I rephrase my question.

14 Q Could you tell me how you believe your pay of 250 was --

15 MS. YOU: Strike that.

16 Q When you were given 250 as a four day working in the  
17 first month?

18 THE COURT: Excuse me, you cannot testify. I did  
19 not get that he got 250 for four days.

20 MS. YOU: Okay. That's fine.

21 Q Did you testify you received 250 for four days when you  
22 started working?

23 THE COURT: Excuse me, can you ask the question?

24 How much money did you make a day? When did you  
25 start working? When did you end work? Those are questions

*K. Jun - Direct/Ms. You*

13

1 that you should be asking.

2 MS. YOU: All right. I will restart again. I think  
3 I messed up.

4 EXAMINATION BY

5 MS. YOU:

6 (Continuing.)

7 Q What was the pay rate for your first month's working for  
8 Wing Keung?

9 THE COURT: We got that, 1,500 a month.

10 Q How many days did you work for that first month?

11 A Four days.

12 Q How much did you get paid for that four days?

13 A 250.

14 Q Did anybody tell you how this 250?

15 THE COURT: Is it 250 per day, or is it 250 for four  
16 days?

17 Q Was that 250 per day or 250 for four days?

18 A Four days, 250.

19 Q You testified you were paid thereafter 16,000 and then  
20 after 17,000, then 18,000?

21 MS. SPINDLER: Objection.

22 THE COURT: Excuse me, that was not his testimony,  
23 Ms. You. 1,600; 1,700; 1,800. That's different than  
24 thousand.

25 And, please, ask questions and don't try to recap

*K. Jun - Direct/Ms. You*

**14**

1 his testimony.

2 MS. YOU: Right.

3 THE COURT: Please.

4 MS. YOU: I just try to lay some foundation.

5 THE COURT: No, you're not laying foundation, you're  
6 leading your witness. Ask questions.

7 EXAMINATION BY

8 MS. YOU:

9 (Continuing.)

10 Q After 1,500 you were paid for the first month, how much  
11 you get paid the second month?

12 A Yes, I started with 1,500 and then they increased 100  
13 every month.

14 Q How many days you were supposed to work for a month?

15 MS. SPINDLER: Objection to the question.

16 THE COURT: What's the objection?

17 MS. SPINDLER: How many days did he work? When was  
18 he supposed to work?

19 THE COURT: Okay, please clarify.

20 How many days did you work, Ms. You, is the  
21 appropriate question.

22 Ms. You?

23 MS. YOU: Yes.

24 THE COURT: Can we get with the program.

25 MS. YOU: I was trying to rephrase my question. I'm

*K. Jun - Direct/Ms. You*

15

1     sorry.

2                 THE COURT: The question is: How many days did he  
3     work?

4                 MS. YOU: No, that's not my question.

5     Q     The question is: When you started with Wing Keung  
6     Enterprises, were you told how many days you were supposed to  
7     work for a month?

8     A     I only would get one Sunday off each week.

9     Q     So that's how many days you were told to work each month?

10    A     I am working every day aside from Sundays.

11    Q     So, as I understand, you were told by the Wing Keung you  
12    can only take four days off per month; is that correct?

13               MS. SPINDLER: Objection --

14    A     Yes.

15               MS. SPINDLER: -- to the question.

16               THE COURT: Ms. Spindler, if you have an objection  
17    we're going to be dying in this courtroom.

18               MS. SPINDLER: Some months have five Sundays.

19               THE COURT: Your questions are not very good,  
20    Ms. You, and it's not helpful that you don't have your  
21    questions all worked out. Please.

22               She's correct. Different months have different  
23    numbers of Sundays.

24    EXAMINATION BY

25    MS. YOU:

*K. Jun - Direct/Ms. You*

16

1 (Continuing.)

2 Q So when you worked at Wing Keung how, many days were you  
3 told you were supposed to take days off?

4 THE COURT: Excuse me. May I just ask you? This  
5 hearing is specifically about how the hours were kept.

6 MS. YOU: Right.

7 THE COURT: Can we get to questions? I have no idea  
8 what your client did or how long. He doesn't know which year.  
9 He's confused. I would like to get at what this hearing was  
10 about, so you can walk him through how the hours were kept  
11 that might be helpful.

12 MS. YOU: I want to know how many days.

13 THE COURT: We heard that he had to work every day  
14 except Sunday.

15 Move on.

16 MS. YOU: All right.

17 EXAMINATION BY

18 MS. YOU:

19 (Continuing.)

20 Q So if you take more than one day off a week, will you  
21 receive the same --

22 THE COURT: He said he only took one day off a week,  
23 so what is the question?

24 MS. YOU: He was supposed to take one day off.

25 THE COURT: That's what he said he did.



*K. Jun - Direct/Ms. You*

17

1 MS. YOU: Yes.

2 EXAMINATION BY

3 MS. YOU:

4 (Continuing.)

5 Q Was there any time you may take more than one day off  
6 from work?

7 A Yes, I did. But they deducted my salary.

8 Q Did you understand how they would deduct this salary if  
9 you take more than one day off from work every week?

10 A Say the salary was 1,600, like, there are 26 days for the  
11 month then you calculate in however the amount for each day  
12 they deducted it.

13 Q So your pay was -- so your pay was --

14 THE COURT: Ask the question again.

15 MS. YOU: Yes, your Honor.

16 THE COURT: I didn't get an answer. If he took a  
17 day off, what was deducted?

18 MS. YOU: Okay.

19 Q If you take day off, what was deducted?

20 A If the salary was low, I think it was up to, like, 80  
21 something dollars a day.

22 Q So if you take more than two days off, were you deducted  
23 two, like, your deduction of the pay would be doubled?

24 THE COURT: Ms. You, I'm so sorry, these questions  
25 are speculation. I want to know what he did when he got

*K. Jun - Direct/Ms. You*

**18**

1 there. I don't want to talk about if he was, what would  
2 happen? I want to know what did happen.

3 Q Would your monthly salary actually be deducted because if  
4 you took more than one day off from work?

5 A Yes.

6 Q So it happened during employment with Wing Keung  
7 Enterprises?

8 A Yes, it did happen.

9 Q Okay. Let's talk about hours.

10 THE COURT: When did it happen, Ms. You? You went  
11 through all this trouble and you have nothing.

12 MS. YOU: Let's go to the hours.

13 THE COURT: So you don't want to ask him when was  
14 the money deducted, which week it was deducted. When did he  
15 not get paid?

16 Ms. You?

17 MS. YOU: Yes.

18 THE COURT: You're choosing to move on now?

19 MS. YOU: Okay.

20 THE COURT: Is that correct? You're moving on to  
21 the issue at hand.

22 MS. YOU: No, your Honor, I'm thinking of the next  
23 question. I'm a little bit slow, I'm reading. Sorry.

24 The next question is about hours.

25 Q Let's start with the first month you started work with

*K. Jun - Direct/Ms. You*

**19**

1 Wing Keung.

2 What was your job duties in the first month of your  
3 employment?

4 A I was an installation and demolition person.

5 MS. SPINDLER: I'm sorry, installation and  
6 demolition person?

7 THE INTERPRETER: And demolition.

8 Q So what exactly, could you describe what did you do for  
9 the first month in detail.

10 A And when the restaurant equipment I would help to load  
11 them to the vehicle and then I would also unload those back to  
12 the restaurant.

13 Q After you load the goods to the vehicle, did you actually  
14 ride with this vehicle, or did you just stay in the warehouse?

15 A When I first went there, I stayed at the warehouse.

16 Q You say it's accurate to describe your first job duty in  
17 the first month when you were employed with Wing Keung as  
18 stocking stuff?

19 THE COURT: Excuse me.

20 MS. YOU: I'm sorry.

21 THE COURT: Ms. You, did you prepare at all for this  
22 hearing?

23 MS. YOU: Yes, I did.

24 THE COURT: And what is the hearing supposed to  
25 address, Ms. You?

*K. Jun - Direct/Ms. You*

*20*

1 Ms. You?

2 MS. YOU: Employment records.

3 THE COURT: It's about whether or not they have  
4 falsified records.

5 MS. YOU: Yes.

6 THE COURT: Have we gotten to anything about what  
7 the hearing is about.

8 MS. YOU: It's going to be there about hours.

9 THE COURT: When are we going to talk about this?

10 MS. YOU: Right now.

11 THE COURT: Please translate.

12 I apologize to the plaintiffs because I keep  
13 interrupting your attorney, but that is because the purpose of  
14 this hearing was a particular purpose and we haven't gotten  
15 anywhere near what the purpose of the hearing is.

16 Ms. You.

17 MS. YOU: Yes, your Honor.

18 EXAMINATION BY

19 MS. YOU:

20 (Continuing.)

21 Q So were you working in the warehouse for the first month.  
22 When did you usually arrive at the business?

23 MS. SPINDLER: Objection.

24 THE COURT: What's the objection, Ms. Spindler?

25 MS. SPINDLER: When did you arrive?

*K. Jun - Direct/Ms. You*

*21*

1 MS. YOU: When did you arrive.

2 THE COURT: Just say, "When did you arrive?" How is  
3 that?

4 A 6:00 a.m.

5 Q Where were you required to arrive at the business?

6 MS. SPINDLER: Objection, again.

7 THE COURT: Overruled.

8 A 6:00 a.m.

9 Q Was there any time you might be later than 6:00 a.m. when  
10 you arrive at the business?

11 A No.

12 Q But during your two years' employment --

13 MS. YOU: Strike that.

14 Q What time did you leave the business for the day for the  
15 first month of your employment?

16 A 4:00 p.m.

17 Q So, for the first month of employment, based on your  
18 observation did either employee --

19 THE COURT: Objection. Objection. Move on. He's  
20 only testifying as to what he did. Thank you.

21 Q Tell me, describe what did you do when you started work.

22 After you started work at 6:00, what did you do?

23 MS. SPINDLER: Objection.

24 THE COURT: Ms. Spindler, we can't get a question  
25 out of Ms. You, so what's the objection to this question?

*K. Jun - Direct/Ms. You*

*22*

1 MS. SPINDLER: I don't think it matters what he did,  
2 it matters when he checked in and when he clocked out.

3 MS. YOU: Of course.

4 THE COURT: Well, that would be so helpful, Ms. You,  
5 if you could ask the questions precisely.

6 MS. YOU: But it's, like, three years ago. I'm just  
7 trying to help him understand.

8 THE COURT: No. That was your job before you came  
9 into the courtroom. Now is your job to ask questions.

10 So, could you answer: When you got there at  
11 6:00 a.m., did you clock in?

12 THE WITNESS: The first two days I was there, I did  
13 not clock in.

14 THE COURT: And after the first few days?

15 THE WITNESS: Later on, it started. I started  
16 clocking in but I don't remember exactly when.

17 THE COURT: So where do you go to clock in?

18 If you're not going to do your job to prepare for  
19 this hearing.

20 If you're not going to do your job then the Court is  
21 going to take over.

22 Do you understand?

23 MS. YOU: If your Honor just want me to ask about  
24 clocking in and clock out, I can do that. I just want you to  
25 try to understand the business operation.

*K. Jun - Direct/Ms. You*

23

1 THE COURT: Ms. You, I have no picture of the  
2 business.

3 MS. YOU: So I'm going to ask a question.

4 THE COURT: No, I'm telling you. Do you have a list  
5 of questions that you're going to ask each of your witnesses?  
6 It's unacceptable to come to court and wing it. It's not fair  
7 to your client.

8 Ms. You, do you have a list of questions prepared or  
9 else I'll give you a 15-minute break to get your questions  
10 together.

11 MS. YOU: I have questions.

12 THE COURT: Okay.

13 MS. YOU: The question --

14 THE COURT: So did you ask --

15 You said the first couple of days he didn't clock  
16 in. Then what happened?

17 THE WITNESS: Then I started to punch card and also  
18 with my fingerprints.

19 THE COURT: When you say you started with a punch  
20 card, what did that involve?

21 THE WITNESS: An office door they have this machine  
22 that you put your fingers on it.

23 THE COURT: So every day you come in you put your  
24 fingers on the machine?

25 THE WITNESS: Yes.

*K. Jun - Direct/Ms. You*

**24**

1 THE COURT: And did you do that as soon as you came  
2 in the morning?

3 THE WITNESS: Yes. Sometimes I may be a little bit  
4 late.

5 THE COURT: And did you do it again when you were  
6 leaving?

7 THE WITNESS: Yes.

8 THE COURT: And where was that machine?

9 THE WITNESS: Right in front of the office door.

10 THE COURT: So when you got there, that's the first  
11 thing that you did? When you got there in the morning at  
12 6:00 a.m.?

13 THE WITNESS: Yes, I go in the office door, the  
14 company door. The office is right next to it so I go there  
15 and punch in.

16 THE COURT: And when you left, you did the same  
17 thing to leave?

18 THE WITNESS: Yes.

19 THE COURT: And that was the way it was all of the  
20 months that you worked there?

21 THE WITNESS: Yes.

22 THE COURT: And you always punched in and punched  
23 out?

24 THE WITNESS: Correct.

25 THE COURT: Ms. You?



*K. Jun - Direct/Ms. You*

25

1 MS. YOU: Yes.

2 EXAMINATION BY

3 MS. YOU:

4 (Continuing.)

5 Q I have questions about this punch in, punch out.

6 When you work for the Wing Keung, was the timing  
7 machine it's a fingerprint, as I understand, was mounted on  
8 the wall or it's just it's moveable?

9 A That I'm not certain. It is placed right in front of the  
10 office door.

11 THE COURT: So on a wall?

12 THE WITNESS: Yes, on the wall.

13 Q Was it able to remove?

14 THE COURT: No, you asked the question already.

15 MS. YOU: That's fine.

16 THE WITNESS: Oh, first it started as a fingerprint,  
17 and later on they took a picture even.

18 Q So when did they change to the facial recognition system?

19 A I cannot remember the exact time.

20 Q Did you believe it's after this lawsuit or it's before  
21 this lawsuit?

22 A I only heard it. I heard that once they were sued --

23 THE COURT: That's fine. Thank you.

24 MS. YOU: I'm going to call my second witness.

25 THE COURT: No, she gets to cross-examine your

*K. Jun - Direct/Ms. You*

26

1 witness.

2 Do you have any documents that you were seeking to  
3 introduce?

4 MS. YOU: For Mr. Jun, that's all I have.

5 THE COURT: That's all you wanted to ask of this  
6 witness?

7 MS. YOU: I have more questions, but if your Honor  
8 wants to know about clocking in and clocking out that's the  
9 question.

10 THE COURT: I'm asking one more time.

11 Do you have anything else of this witness before I  
12 give it to Ms. Spindler to cross-examine?

13 MS. YOU: I think I have further questions. I'm  
14 sorry, your Honor.

15 EXAMINATION BY

16 MS. YOU:

17 (Continuing.)

18 Q After your first months' work working in the warehouse,  
19 what was your job duties afterwards?

20 MS. SPINDLER: Objection.

21 MS. YOU: They're scheduled different than the first  
22 month.

23 MS. SPINDLER: He testified every day he clocks in  
24 at 6:00.

25 THE COURT: I don't need both attorneys to argue. I

*K. Jun - Direct/Ms. You*

*27*

1 don't think I need to hear how his job changed from one job to  
2 another.

3 We don't have dates. We don't have specifics.  
4 Again, you could have done a better job preparing your  
5 witness.

6 MS. YOU: This is not just about clocking in and  
7 clocking out, there's other details about that.

8 THE COURT: This is about falsifying records.

9 MS. YOU: Right.

10 THE COURT: That's what the hearing is about.

11 MS. YOU: Right.

12 THE COURT: So do you have any other questions about  
13 falsifying of records?

14 MS. YOU: Okay. Hold on.

15 EXAMINATION BY

16 MS. YOU:

17 (Continuing.)

18 Q Describe how you have your meal on a daily basis when you  
19 were employee at Wing Keung?

20 THE COURT: What does that have to do with the  
21 clocking in and the falsifying of records?

22 MS. YOU: That's 30 minutes always deducted from the  
23 time record.

24 THE COURT: Again, does he have to clock in or clock  
25 out?

*K. Jun - Direct/Ms. You*

**28**

1 MS. YOU: You want me to ask whether he clock in and  
2 clock out for meal time?

3 THE COURT: That would be a better question, don't  
4 you think?

5 EXAMINATION BY

6 MS YOU:

7 (Continuing.)

8 Q Did you clock in and clock out for meal time?

9 A No.

10 Q So when did you take your meal?

11 A There was no time for meals, really. We just find some  
12 open space to eat.

13 Q So when you worked at Wing Keung, have you ever taken  
14 30 minutes to have your meal?

15 A No.

16 Q Why didn't you take 30 minutes for a meal?

17 A They wouldn't give us any time to eat.

18 Q What would you do if you take 30 minutes for your meal?

19 What would happen if you took more than 30 minutes  
20 for your meal?

21 MS. SPINDLER: Objection.

22 A Impossible. That would never happen.

23 THE COURT: He already said that he wasn't given  
24 time for meals, so why are we asking?

25 MS. YOU: I think I am finished with Mr. Kong.

*K. Jun - Cross/Ms. Spindler*

29

1 THE COURT: Mr. Kong, the defendant's attorney will  
2 now have a chance to ask you questions.

3 Ms. Spindler.

4 CROSS-EXAMINATION

5 BY MS. SPINDLER:

6 Q Mr. Kong, did Wing Keung have a kitchen facility on the  
7 premises?

8 A Yes.

9 Q Yes, they did.

10 Did they cook meals on the premises for their  
11 employees?

12 A Yes. But I ate there when I first went there. Yes, I  
13 wait for about a month and then it stopped.

14 Q Did you bring your own food to Wing Keung?

15 A I brought my own food, though.

16 Q Okay.

17 And then there came a time when you were a driver?

18 A Yes.

19 Q And you left the premises?

20 A Yes.

21 Q And you took something to eat with you?

22 A Yes; sometimes I eat on the outside, sometimes I just  
23 take a moment to eat on the premises.

24 Q Okay.

25 MS. SPINDLER: I have no other questions.

*K. Jun - Cross/Ms. Spindler*

30

1 THE COURT: You can step down.

2 (Witness leaves the witness stand.)

3 THE COURT: I am going to ask, Ms. You, for you to  
4 take 15 minutes so I can take the next case that's here  
5 waiting for you to get your questions together so that you are  
6 asking questions that go to the point of what this hearing is  
7 about.

8 And if you need to step outside -- could you help  
9 them, Mr. Interpreter?

10 THE INTERPRETER: They understand.

11 THE COURT: Do you understand what I'm saying,  
12 gentlemen, that she needs to have her questions ready to go.  
13 I'm not asking to going to have her going over the questions  
14 the way that she was. So we're going to take a ten-minute  
15 break. You can leave all your things if you want,  
16 Ms. Spindler.

17 (A recess in the proceedings was taken.)

18 (In open court.)

19 THE COURT: Ms. Spindler, are you ready to go?

20 MS. SPINDLER: I lost my client.

21 THE COURT: Do you have a phone number you can call?  
22 Can we start without him?

23 MS. SPINDLER: Yes, we can.

24 THE COURT: Do you want your other client to come up  
25 here?

*C. Tang - Direct/Ms. You*

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1 MS. SPINDLER: Yes.

2 THE COURT: Okay. We took a brief break so that I  
3 can handle a couple of other matters, and we are back on the  
4 record in the record in Tang versus Wing Keung, 14-CV-390.

5 Ms. You, please call your next witness.

6 MS. YOU: My next witness is Chaohui Tang.

7 (Witness takes the witness stand.)

8 COURTROOM DEPUTY: Raise your right hand. State  
9 your name for the record.

10 THE WITNESS: Chaohui Tang.

11 COURTROOM DEPUTY: Spell your last name.

12 THE WITNESS: C-h-a-o-h-u-i. T-a-n-g.

13

14 CHAOHUI TANG, called by the Plaintiffs, having been first  
15 duly sworn/affirmed, was examined and  
16 testified as follows:

17

18 THE WITNESS: All true.

19 COURTROOM DEPUTY: You can sit.

20 DIRECT EXAMINATION

21 BY MS. YOU:

22 Q Mr. Tang, tell me from what period of time were you an  
23 employee for Wing Keung?

24 A September 2011 'till September 2013.

25 Q What was your job duties during employment at Wing Keung?

*C. Tang - Direct/Ms. You*

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1 A I was a miscellaneous worker.

2 Q Could you describe your daily duties when you worked  
3 there?

4 A I will load vehicle in the morning and I followed the car  
5 for whatever businesses.

6 Q What was the route that you followed?

7 A The first year was, basically, Buffalo.

8 Q What about other years?

9 A Second year, I went to Upstate New York, New Jersey, and  
10 Long Island.

11 Q Could you describe your delivery route to Buffalo?

12 A We started from our company around 8:00 o'clock in the  
13 morning. I worked 'till the evening, about 9:00 o'clock or  
14 so. I would stay at a motel or hotel out of state and then  
15 I'll get up at 8:00 a.m. in the morning the next day and I  
16 will make more deliveries. About 10, 11:00 o'clock in the  
17 evening I got back here.

18 Q Before you started your trip at 8:00 o'clock, did you do  
19 some --

20 Did you --

21 Describe what did you do at Wing Keung?

22 A I would load the items onto the truck.

23 Q What time did you usually arrive at Wing Keung for the  
24 first year?

25 A About 7:00 a.m.



*C. Tang - Direct/Ms. You*

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1 Q For the second day, when you returned from Buffalo, what  
2 time did you usually arrive at the business?

3 A 10:00 o'clock, sometimes 11:00, sometimes 9:00. It  
4 varied.

5 Q After first year, did -- was there any change of the  
6 route for the other years.

7 A No.

8 Q After the first year, was there any change of the route?

9 THE COURT: You asked that. You just asked that.  
10 He said, "No."

11 THE WITNESS: Yes, I'm talking about second year.

12 Q What was the route for the second year?

13 A I went to New York or New Jersey. That's Upstate  
14 New York.

15 Q What time did you arrive at the business for the second  
16 year?

17 A 6:00.

18 Q Would you return the same day?

19 A Yes, the second year, I could return the same day.

20 Q What time did you usually arrive at the business for the  
21 second year?

22 A 6:00 o'clock.

23 Q Did you usually clock in, clock out, for the first year  
24 delivery?

25 A Yes, punch in, punch out card.

*C. Tang - Direct/Ms. You*

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1 Q When you were out of state -- I'm sorry.

2 THE COURT: Excuse me.

3 How did you punch in and punch out?

4 THE WITNESS: They just put it on the table. I  
5 punch in when I went to work but I did not punch out the first  
6 year.

7 THE COURT: What is it that he's saying was on a  
8 table?

9 THE WITNESS: It's a machine for you to put your  
10 fingerprints on.

11 THE COURT: And where was the machine?

12 THE WITNESS: It's right on the sales table.

13 THE COURT: And it was there when he would arrive at  
14 7:00 in the morning?

15 THE WITNESS: Sometimes it was there, sometimes it  
16 was inside. It was taken inside.

17 THE COURT: And there was there at 7:00 a.m. when  
18 you would arrive?

19 THE WITNESS: Sometimes, yes, sometimes no.

20 THE COURT: And when he would get back, was it  
21 there?

22 THE WITNESS: No. Because by the time I got to the  
23 company it was very, very late.

24 THE COURT: And, in the second year, when he used to  
25 arrive at 6:00 and get back at 6:00 p.m., was it the same

*C. Tang - Direct/Ms. You*

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1 machine?

2 THE WITNESS: Yes.

3 THE COURT: So it was the same machine with the  
4 fingerprints the whole time?

5 THE WITNESS: Yes.

6 THE COURT: And it was there at 6:00 p.m. when he  
7 would get back?

8 THE WITNESS: Yes.

9 THE COURT: Go ahead.

10 MS. YOU: Okay.

11 EXAMINATION BY

12 MS. YOU:

13 (Continuing.)

14 Q Was there time for the second year when you would come  
15 back at 6:00 o'clock was there a time when the machine was not  
16 there?

17 A Right. Sometimes it wasn't there.

18 Q Was the time machinery movable?

19 A Right.

20 Q Was the machine ever mounted on the wall?

21 A No.

22 Q Who would remove that machine back?

23 A Somebody at the office.

24 THE COURT: He saw them remove it?

25 THE WITNESS: No. Because once I left work, I don't

*C. Tang - Direct/Ms. You*

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1 see it.

2 Q When you were employed by the Wing Keung, was it always  
3 the same machine, or was at some point in time they changed  
4 the time recording system?

5 A It was not changed, it was only one type.

6 Q I'm going to show you some time records produced by the  
7 defendants.

8 THE COURT: You didn't give these to defendant until  
9 now.

10 MS. YOU: That's a docket submission. This is  
11 defendant's own production.

12 THE COURT: Are they all marked?

13 MS. YOU: I'm going to mark them.

14 THE COURT: And you're just giving them to her now  
15 and you have to give a set to the Court and a set to the  
16 witness.

17 MS. YOU: So this is Docket 43.

18 THE COURT: Excuse me.

19 MS. YOU: This is Docket 43 in defendant's  
20 submission.

21 THE COURT: It's from the motion that you've  
22 submitted as ECF 43.

23 MS. YOU: They submitted in opposition.

24 THE COURT: And so which pages are you going to ask  
25 questions about.

*C. Tang - Direct/Ms. You*

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1 MS. YOU: This is -- I just want to show him the  
2 document that I make a summary because this is --

3 THE COURT: Again, that's not how this works. If  
4 you're asking him to identify something, you have to show it  
5 to him and ask him if he knows what it is.

6 MS. YOU: Yes, I'm going to show him.

7 THE COURT: But you have at least a hundred pages of  
8 documents in your hand.

9 MS. YOU: Yes, but I just want to him --

10 THE COURT: Ms. You.

11 MS. YOU: I have --

12 THE COURT: Are you asking for this to be introduced  
13 into evidence?

14 MS. YOU: Yes, your Honor.

15 THE COURT: So then lay a foundation for the  
16 document, see if he knows what it is.

17 Go ahead. Give the copy to the defendants. We'll  
18 mark it once it's going to go into evidence.

19 MS. YOU: Your Honor, but this is a party  
20 submission. Party submission.

21 THE COURT: You are at an evidentiary hearing. I  
22 don't care what was submitted as part of a motion. If you are  
23 going to take several pages and show them to the witness, you  
24 needed to have them marked as exhibits, give them to  
25 Ms. Spindler so that she could see what it is you're

*C. Tang - Direct/Ms. You*

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1 questioning the witness about, and then you have to lay a  
2 foundation under the rules of evidence for the admission of  
3 that document.

4 MS. YOU: Yes, your Honor.

5 THE COURT: Let the record reflect that, Ms. You,  
6 are you now taking out exhibit stickers to stick on things?

7 MS. YOU: Yes. I'm going to mark this as  
8 Plaintiff's Exhibit P-1. This is a defendant's submission in  
9 opposition of plaintiff's motion of plaintiff Tang Chaohui's  
10 time record. And I'm going to show to the witness to identify  
11 the time entry made by the plaintiff.

12 Also, the --

13 THE COURT: Did he create these records?

14 MS. YOU: No, he didn't create records. The  
15 defendant created this record.

16 THE COURT: How is he going to authenticate that  
17 these are the records?

18 MS. YOU: There is plaintiff's signature on certain  
19 pages.

20 THE COURT: So show him the pages that you want to  
21 have marked as an exhibit. I don't take 500 pages as one  
22 exhibit. You're going to question him about certain pages,  
23 show it to him, ask him if he can identify it. Make the  
24 record.

25 MS. SPINDLER: Can I see what you have?

*C. Tang - Direct/Ms. You*

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1 MS. YOU: This is Mr. Tang Chaohui's time record and  
2 pay stubs.

3 THE COURT: You brought one copy of these documents?

4 MS. YOU: Yes, I have one.

5 MS. SPINDLER: I just want to see.

6 MS. YOU: I'm asking Ms. Spindler. She said she had  
7 one.

8 MS. SPINDLER: I don't think counsel should mark the  
9 exhibit herself.

10 THE COURT: Well, again, she could have premarked  
11 them and had copies for everybody.

12 Ms. You, present it to your witness and lay the  
13 foundation, and then you can see if he can authenticate it and  
14 then you can move for it to be admitted.

15 Ms. You.

16 MS. YOU: Yes. I'm sorry, your Honor.

17 May I approach the witness.

18 (Approaching the witness.)

19 MS. YOU: This is a document produced by --

20 THE COURT: Ms. You, give it to the witness and ask  
21 him if he recognizes what this document is.

22 EXAMINATION BY

23 MS. YOU:

24 (Continuing.)

25 Q Have you ever seen this document?

*C. Tang - Direct/Ms. You*

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1 THE COURT: Move away from the witness, please.

2 A I'm not familiar with it.

3 Q Okay. Let's turn to the second page.

4 There is your signature -- there is a signature  
5 there, do you recognize this signature?

6 A Yes.

7 Q Okay. Under what circumstances?

8 THE COURT: Whose signature is it?

9 Q Whose signature is it?

10 A That's my signature.

11 Q Under what circumstances you signed this document?

12 A You know, if I didn't sign this paper, I would not get  
13 paid. I don't even know what it's written on right now.

14 Q How often did you sign this document?

15 THE COURT: Again, you're going to take this  
16 document back. He says he doesn't know what this document is.  
17 This is not a way to get something into evidence. You can ask  
18 him questions but the document can't be authenticated through  
19 this witness.

20 (Approaching the witness.)

21 THE COURT: This is what preparation is for. If you  
22 would have sat down with your witnesses and gone over these  
23 matters before you brought them into court.

24 MS. YOU: Yes, your Honor. I'm sorry, your Honor.  
25 This is just submission by the defendant to show the time



*C. Tang - Direct/Ms. You*

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1 record of the plaintiffs and I understand it's a huge volume.

2 THE COURT: Again, ask your witness questions. He  
3 already said that he doesn't know what this document is. He  
4 said that this is his signature but that's all he knew. So go  
5 ahead and ask questions not about the document because he  
6 can't authenticate the document for you.

7 MS. YOU: I'm going to ask the witness to compare  
8 the summaries.

9 THE COURT: No. You prepared these summaries, they  
10 have nothing to do with anything that was prepared while he  
11 was working for the defendants.

12 Ms. You, ask questions, like, "How did you get paid,  
13 sir?"

14 How did you get paid?

15 THE WITNESS: Monthly salary.

16 THE COURT: In cash?

17 MS. YOU: Your Honor --

18 THE WITNESS: Half by cash, half by check.

19 THE COURT: And when you got paid in cash, did you  
20 have to sign something?

21 THE WITNESS: Yes.

22 THE COURT: And when you had to sign something, did  
23 you look at what you were signing.

24 THE WITNESS: They wrote it in English, I wouldn't  
25 know.

*C. Tang - Direct/Ms. You*

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1 THE COURT: So every month you had to sign something  
2 and you had no idea what you were signing?

3 THE WITNESS: I did not know.

4 THE COURT: And did you just sign it once a month.

5 THE WITNESS: Yes.

6 THE COURT: So your document there, is it every  
7 month, once a month?

8 MS. YOU: It's weekly.

9 THE COURT: It's weekly. So it's not what he's  
10 saying that he signed once it a month.

11 EXAMINATION BY

12 MS. YOU:

13 (Continuing.)

14 Q What did you sign once a month?

15 What kind of document did you sign once a month?

16 A I don't know. Whenever they issue the salary to me, they  
17 asked me to sign, I signed it.

18 Q So you signed the document once a month?

19 A Right.

20 Q How many pages did you sign each month?

21 A Like four, four pieces including the cash that will be  
22 five.

23 Q So you signed five pages of documents when you got paid?

24 A Right.

25 Q Did you know what contained -- do you know what kind of

*C. Tang - Direct/Ms. You*

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1 five-page document you were signing?

2 A I did not know.

3 Q Was there any documents in Chinese?

4 A No.

5 Q During your employment for the second year, how many  
6 times did you get off?

7 How many times did you leave for the day before  
8 4:00 o'clock? Some time around 3:00 to 4:00?

9 THE INTERPRETER: The first year did you say?

10 MS. YOU: Second year.

11 A Very rare, but mostly after 4:00.

12 Q As you recall, how is it possible you leave for the day  
13 three times or four times around the 3:00 o'clock to  
14 4:00 o'clock?

15 THE COURT: What are you talking about?

16 MS. SPINDLER: Objection.

17 THE COURT: Ms. You, I don't even know what year  
18 you're talking about.

19 MS. YOU: For the second year.

20 THE COURT: What year is this? The second year that  
21 he was employed, what year there should be a chronological  
22 year.

23 MS. YOU: 2012 --

24 (A brief pause in the proceedings was held.)

25 THE COURT: Ms. You, we cannot keep going like this.

*C. Tang - Direct/Ms. You*

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1 It's not fair.

2 MS. YOU: Yes, your Honor.

3 THE COURT: Ask questions.

4 MS. YOU: Yes, I will.

5 EXAMINATION BY

6 MS. YOU:

7 (Continuing.)

8 Q When you say, "It's very rare," you can get off for the  
9 day for the second year when you were employed by the  
10 Wing Keung, how you define rare.

11 How many times a week you might leave before  
12 4:00 o'clock?

13 MS. SPINDLER: Objection to the question.

14 THE COURT: I agree. That's not going to help us  
15 here.

16 You want to ask about his meal breaks now since you  
17 asked the other person about meal breaks?

18 MS. YOU: No.

19 THE COURT: You don't want to ask about meal breaks.

20 EXAMINATION BY

21 MS. YOU:

22 (Continuing.)

23 Q If you leave before 4:00 o'clock --

24 THE COURT: Do you have a date in mind that you're  
25 asking him a question about?

*C. Tang - Direct/Ms. You*

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1 MS. YOU: Right. It's the second year for the  
2 employment from the not to have --

3 THE COURT: Again, you're not testifying. I'm  
4 asking you to ask specific questions.

5 EXAMINATION BY

6 MS. YOU:

7 (Continuing.)

8 Q Could you tell me again from what period of time you  
9 started one-day delivery?

10 THE COURT: Excuse me. I don't understand the  
11 question.

12 MS. YOU: It's one-day delivery. One-day delivery  
13 for a route.

14 THE COURT: I'm sorry, I don't understand what  
15 you're asking. I don't understand it in English, so I doubt  
16 he will understand it in Chinese.

17 MS. YOU: Right.

18 EXAMINATION BY

19 MS. YOU:

20 (Continuing.)

21 Q So for the first year...

22 THE COURT: I'm giving you another two minutes to  
23 ask questions of this witness and then it's going to be  
24 Ms. Spindler's turn. We're just wasting time. You're not  
25 prepared you don't have your questions.

*C. Tang - Direct/Ms. You*

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1 MS. YOU: I am prepared.

2 THE COURT: You are not prepared, Ms. You.

3 EXAMINATION BY

4 MS. YOU:

5 (Continuing.)

6 Q So you testified during employment what was the --

7 MS. YOU: Let me start the question.

8 Q Tell me, for what period of time you were employed by  
9 Wing Keung?

10 MS. SPINDLER: Objection, it was asked and answered.

11 THE COURT: He said he was employed from  
12 September 2011 to September 2013.

13 Q So what did you do for the year 2012?

14 A I work in the company.

15 Q What kind of route you make delivery?

16 A I run the route of New York State and New Jersey state.

17 Q When you returned on the same day from that deliver  
18 route?

19 A The second year, yes. Not the first year.

20 Q The next line of questioning we'll limit to that delivery  
21 route when you were employed by Wing Keung.

22 Do you understand me?

23 THE COURT: I don't understand what you said.

24 Q So the question is: For that delivery route, how often  
25 would you leave for the day before 4:00 o'clock?

*C. Tang - Direct/Ms. You*

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1 A The company we work for, we were not allowed to leave  
2 before 4:00 p.m.

3 Q Would you be able to clock if you left before  
4 4:00 o'clock?

5 A I couldn't.

6 Q Why you couldn't?

7 A Because the machine was taken inside the office.

8 THE COURT: "Before 4:00 o'clock," you asked?

9 MS. YOU: Before 4:00 o'clock, yes.

10 Q So how you describe --

11 How would you describe if a time record showed you  
12 always leave before 4:00 o'clock. Sometimes two or three days  
13 per week.

14 THE COURT: I'm sorry, that is not asking a  
15 question.

16 Q So if you believe it's true --

17 THE COURT: Again, what he believes is not relevant.

18 Q So let's talk about your first overnight delivery, right,  
19 to Buffalo.

20 Were you not able to clock in before you -- because  
21 you stay out -- you stay overnight on the delivery route. Did  
22 anybody call you or confirm with you about what time you  
23 arrive at Buffalo?

24 A No.

25 Q Thereafter, you left for the second day when you

*C. Tang - Direct/Ms. You*

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1 returned, did anybody confirm with you at what time you left  
2 Buffalo and come back to New York?

3 A No.

4 Q When you made this two-day delivery to Buffalo, New York,  
5 on your way to return, were you stopped in New Jersey at some  
6 point?

7 A The last day before we returned, we would add fuel in  
8 New Jersey.

9 Q Were you required to add fuel in New Jersey?

10 THE INTERPRETER: Were you what?

11 MS. YOU: Were you required?

12 THE COURT: Are you saying required?

13 MS. YOU: Required to add fuel.

14 A Yes, because that would be the closest to the company  
15 before we filled up the tank for the car.

16 Q Do you know which gas station you --

17 THE COURT: Enough. This is not going to whether  
18 the records are valid or invalid.

19 Please move on. We have another witness and they  
20 have to be able to cross-examine. You have to move on.

21 MS. YOU: Just one more question, your Honor, about  
22 this gas because they provide a lot of gas receipts.

23 THE COURT: And what does that have to do with  
24 clocking in and clocking out?

25 MS. YOU: That's about what time they actually



*C. Tang - Direct/Ms. You*

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1 returned to New York.

2 THE COURT: Ask a question and then we're done.

3 EXAMINATION BY

4 MS. YOU:

5 (Continuing.)

6 Q Do you recall at which gas station you usually add gas?

7 A We usually like to get to the last stop in New Jersey  
8 before we came back over.

9 Q After you add the gas --

10 THE COURT: That was your last question?

11 MS. YOU: I'm sorry, just one more.

12 THE COURT: Ms. You, this has nothing to do with the  
13 issue that we're here about.

14 MS. YOU: Okay, your Honor.

15 THE COURT: Can you please keep your focus on  
16 whether or not the records are valid or invalid. Where he  
17 stopped for gas is not going to prove that they're valid or  
18 invalid.

19 Is this it for this witness and is it now  
20 Ms. Spindler's turn?

21 MS. YOU: Your Honor, that's it for this witness.

22 THE COURT: Thank you. Ms. Spindler.

23 CROSS-EXAMINATION

24 BY MS. SPINDLER:

25 Q Mr. Tang, did you give a declaration in this case?

*C. Tang - Direct/Ms. Spindler*

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1 Did you sign a declaration in this case?

2 A You mean when I was receiving payment?

3 THE COURT: No.

4 Q No. I'm going to show you something. Do you recognize  
5 that -- those papers?

6 A I don't know. What is it.

7 THE COURT: Show him the last page.

8 Q I'm going to show you Page 5. Do you recognize the  
9 signature on that page?

10 A I recognize it.

11 Q Okay.

12 THE COURT: Who signature is it?

13 A But what does that mean, though.

14 Q Do you know whose signature that is?

15 A Mine.

16 Q Okay.

17 And when you signed your name to this page, were  
18 these pages also attached to the paper you signed?

19 A Yes.

20 Q And did you read this declaration?

21 A I don't know English.

22 Q Okay. Did anybody translate it for you?

23 A This one?

24 Q Yes.

25 A I think that it was translated.

*C. Tang - Direct/Ms. Spindler*

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1 Q Okay. And were the pages that are marked Exhibit A  
2 attached to it as well and Exhibit B.

3 A No, I don't have any, you know, what timing like getting  
4 to work at 10:00 a.m.

5 Q Were these pages attached to your declaration when you  
6 signed it?

7 A Let me ask you a question. Does this material come from  
8 my lawyer or did it come from you?

9 THE COURT: Again, sir, you have to answer her  
10 questions.

11 THE WITNESS: I don't know English, so I don't know  
12 whose material this is. I cannot answer.

13 THE COURT: That's not what the question is. The  
14 question is: Was this material given to you for you to sign  
15 and was it translated?

16 THE WITNESS: I just know the timings are not  
17 correct.

18 THE COURT: That's not what the question was, sir.

19 The question was: Were these documents attached to  
20 what you signed?

21 THE WITNESS: I don't think so.

22 THE COURT: Has this been given to Ms. You?

23 MS. SPINDLER: It's her declaration, she filed with  
24 the Court.

25 THE COURT: But are you putting it into evidence as

*C. Tang - Direct/Ms. Spindler*

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1 part of this -- again, the two of you are --

2 MS. SPINDLER: Not yet.

3 MS. YOU: I am going to redirect with respect to  
4 this document.

5 THE COURT: Excuse me?

6 MS. YOU: I'm going to redirect with respect to this  
7 document.

8 EXAMINATION BY

9 MS. SPINDLER:

10 (Continuing.)

11 Q Mr. Tang, you testified just now that you were employed  
12 by Wing Keung from 2011 to 2013; is that correct?

13 A Yes.

14 Q Okay.

15 If I read Paragraph 3 of this declaration, that you  
16 identified your signature to.

17 "From 2009 to 2012, I worked as a mover and laborer  
18 on the trucks which make cross-state deliveries."

19 Now, did you work for Wing Keung from 2009 or to  
20 2011?

21 A 2011.

22 Q Okay.

23 Next sentence: "The most distance place where I  
24 delivered goods to was Buffalo, New York."

25 A Correct.

*C. Tang - Direct/Ms. Spindler*

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1 Q Where is Buffalo, New York?

2 A It was like seven, eight hours -- about five, six hours  
3 close to Albany.

4 Q Okay. Did you go to Buffalo through Pennsylvania?

5 A That I'm not certain because I'm just a miscellaneous  
6 worker. I don't know anything else.

7 Q When you say, "Buffalo," could it have been Binghamton?

8 A Binghamton. That only concerns where the driver is. It  
9 has nothing to do with me.

10 Q Did you stay overnight in Binghamton, New York?

11 A That is really up to the driver. I have no say to that.

12 Q What deliveries did you make to what restaurant in  
13 Buffalo?

14 A I don't know and care about anything. It's up to the  
15 driver. I just take the machine up and down.

16 Q What hotel or motel did you stay in in Buffalo?

17 A I don't know. Only the driver would know where it was.  
18 I don't know the name or where. As soon as I get onto the  
19 bus, onto the truck, it's all up to the driver. I only know  
20 how to take it up and down.

21 Q Who was the driver you accompanied?

22 A Last name Woo.

23 Q And would you stay with Mr. Woo?

24 THE COURT: This is beyond the scope of direct.

25 MS. SPINDLER: Okay.

*C. Tang - Direct/Ms. Spindler*

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1 THE COURT: So I don't know where you're going with  
2 this but we really do want to focus on the records issue.

3 EXAMINATION BY

4 MS. SPINDLER:

5 (Continuing.)

6 Q Were you able to clock out after 4:30 p.m. at the offices  
7 of Wing Keung?

8 A Yeah, the second year. By the time I got back after  
9 4:00 o'clock, I was able to.

10 Q So, the second year, you were always able to clock out  
11 after 4:00 p.m. no matter what time you got back?

12 A Unless it's very late and that machine is not there.

13 Q And when you came back to Wing Keung with -- return with  
14 the driver you accompanied?

15 A Right.

16 Q Did that driver come back with money to bring into  
17 Wing Keung?

18 A That I don't know.

19 Q Did you see the driver go into the warehouse upon his  
20 return?

21 A Whenever they come back, the driver usually go into the  
22 office.

23 Q And did you go into the office with him?

24 A No.

25 Q But you could have gone into the office with him, yes?

*C. Tang - Direct/Ms. Spindler*

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1 MS. YOU: Objection, calls for speculation.

2 THE COURT: I will allow it.

3 A That's for office business. We are just workers.

4 Q If the driver went in?

5 THE COURT: Again, I'm going to ask you to move on.

6 This is beyond -- there was no talk on direct about the  
7 drivers. We really didn't get talk about the drivers, so,  
8 please, focus on what was raised on direct.

9 MS. SPINDLER: Okay.

10 Q Did the driver clock out for you as well as himself upon  
11 his return?

12 A Yes. The first year, by the time I come back, usually,  
13 11:00 o'clock almost midnight, I didn't get to clock out.

14 Q No.

15 But you said the driver clocked out for you.

16 A Did the driver still.

17 MS. SPINDLER: Nothing else.

18 THE COURT: I want to clarify.

19 You said: I think that the driver could clock out  
20 for you. Is that what happened?

21 THE WITNESS: No, he couldn't.

22 THE COURT: Only you could clock out for yourself?

23 THE WITNESS: Right.

24 THE COURT: And you didn't clock out for yourself  
25 the first year?

*C. Tang - Direct/Ms. Spindler*

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1 THE WITNESS: Because I returned very late and the  
2 clock wasn't there anymore.

3 THE COURT: But the second year you could clock out?

4 THE WITNESS: Because that's the second year where I  
5 did not run to Buffalo.

6 EXAMINATION BY

7 MS. SPINDLER:

8 (Continuing.)

9 Q But you said that when you came back from your Buffalo  
10 route, the driver went into the warehouse and you stayed  
11 outside; correct?

12 THE INTERPRETER: You said, "Went into the office?"

13 Q The driver went into the office.

14 A Right.

15 Q Right.

16 And if he went in, but you didn't, how do you know  
17 the time clock wasn't there?

18 A Usually, they just left it on the table. But by the time  
19 we came back, it was gone.

20 THE COURT: On the table where?

21 THE WITNESS: It was a table right outside the  
22 window of the office.

23 THE COURT: Was it ever inside the office?

24 THE WITNESS: It was possible that it was kept  
25 inside.



*C. Tang - Direct/Ms. Spindler*

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1 Q Did you ever complain to anybody at Wing Keung that your  
2 pay was not -- was less than it should have been?

3 A Of course it was low because I spent a lot of time  
4 running around.

5 THE COURT: That's not the question. Did you ever  
6 complain you're not being paid correctly?

7 THE WITNESS: No, I did not.

8 Q And when you saw -- you got your pay once a month and you  
9 signed these five slips of paper. Were any of these  
10 papers -- did they list the days and times that you were  
11 working?

12 A Even if they was written, you know, I couldn't get paid  
13 unless I signed for it even if they were fake. If I knew it  
14 was fake, I still have to sign it.

15 Q Did you look at those records that were being given to  
16 you?

17 A Generally, no, because if I don't sign I don't get paid.

18 Q You left -- what papers did you take with you when you  
19 went home?

20 A Just four checks. Four checks for the month plus the  
21 cash.

22 Q And did those checks tell you how many hours you had  
23 worked and how many hours you were getting paid for and how  
24 many hours for overtime?

25 A Like I say, even it's written there if I don't sign it,

*C. Tang - Redirect/Ms. You*

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1 they wouldn't have paid me.

2 Q Did you ever have a conversation with anyone? Did  
3 anybody ever refuse to pay you if you didn't sign?

4 A No, but I would not have tried it anyway.

5 Q Do you have any notes or records of your own to show what  
6 hours you worked?

7 A It's only in my heart and in my head.

8 MS. SPINDLER: Nothing further.

9 MS. YOU: Redirect.

10 THE COURT: Very quickly because we have two more  
11 witnesses at least.

12 MS. YOU: May I see the declaration?

13 REDIRECT EXAMINATION

14 BY MS. YOU:

15 Q Because the defendant's attorney show you the  
16 declaration. Have you signed any documents submitted to the  
17 Court for this action?

18 A I did.

19 Q As far as you recall, how many times did you sign these  
20 documents?

21 A Twice.

22 Q How did you sign those documents, in which way?

23 THE COURT: I don't know what that means. How else  
24 do you sign but with a pen?

25 MS. YOU: Okay.

*C. Tang - Redirect/Ms. You*

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1 THE COURT: Ask another question. How did you sign  
2 the document. How do you sign.

3 EXAMINATION BY

4 MS. YOU:

5 (Continuing.)

6 Q Did your attorney explain the document's content to you?

7 A Yes, she did.

8 Q In which way did she explain the content of documents to  
9 you?

10 A She asked me what the situation was and I talk and she  
11 record to.

12 Q Was those explanation by phone or in person?

13 A Face to face.

14 Q Did you review the time record that was submitted by the  
15 defendant shown as your time record?

16 A I told -- I reviewed it and I told the lawyer, I think my  
17 lawyer forgot to change it to 2011.

18 Q Did you sign the submission to the Court in person or by  
19 other way?

20 A No.

21 Q Did you sign this document by fax or in person?

22 A I personally signed it.

23 MS. YOU: Can I approach the witness to show the  
24 document?

25 THE COURT: What is it that you want to ask him?

*C. Tang - Redirect/Ms. You*

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1 MS. YOU: There's a fax number on the top of the  
2 page.

3 THE COURT: So you're discrediting your own witness?

4 MS. YOU: No, I just want to refresh his own memory.

5 THE COURT: No, he said he signed it in person. You  
6 don't get to refresh his recollection.

7 MS. YOU: Does this refresh your memory.

8 THE COURT: No. He answered your question. He  
9 didn't say, I don't remember. You can only refresh when he  
10 doesn't remember. You can't change his testimony because he  
11 said the wrong answer.

12 Q In your submission to the Court, did you state that the  
13 time machine was inaccessible by office staff?

14 THE COURT: I don't understand what you just said,  
15 Ms. You.

16 Q In your submission, in the documents that you submitted  
17 to the Court, did you state that the time machine was rendered  
18 inaccessible by the office staff?

19 A I don't understand.

20 Q Just rendered inaccessible by the office.

21 Did you state in the statements submitted to the  
22 Court that some times you just cannot punch the records  
23 because the office --

24 THE COURT: Excuse me, there has to be a question.  
25 Anything else?

*Colloquy*

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1 MS. YOU: Nothing further.

2 THE COURT: Very good. You may step down, sir.

3 (Witness leaves the witness stand.)

4 THE COURT: Call your next witness, Ms. You.

5 MS. YOU: I'm going to call Mr. Chan.

6 (Witness takes the witness stand.)

7 THE COURT: Do you speak English?

8 THE WITNESS: Yes, I do.

9 THE COURT: So you have a break, sir, but you have  
10 to translate for them.

11 So if you could sit by them give us one moment.

12 Gentlemen, the translator is going to sit with you  
13 so that you can understand his testimony, okay?

14 After we swear him, can you get a bottle of water?

15 MS. SPINDLER: Can my clients come closer so they  
16 can understand.

17 THE COURT: Yes, of course. They can sit at the  
18 back table so they can hear the interpreter.

19 MS. SPINDLER: At that table.

20 THE COURT: And you can pull the other chair.

21 COURTROOM DEPUTY: Please stand and raise your right  
22 hand.

23 THE WITNESS: Simon Chan.

24 COURTROOM DEPUTY: Raise your right hand.

25

*S. Chan - Direct/Ms. You*

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1 SIMON CHAN, called by the Plaintiff, having been first duly  
2 sworn/affirmed, was examined and testified as  
3 follows:

4 THE WITNESS: Yes, I swear.

5 COURTROOM DEPUTY: You can sit.

6 THE WITNESS: Thank you.

7 DIRECT EXAMINATION

8 BY MS. YOU:

9 Q Mr. Chan, describe your employment -- describe your job  
10 title with the Wing Keung?

11 A I'm the general manager.

12 Q Describe your daily job duties?

13 A Book keeping, accounting, A/P, accounts payable, accounts  
14 receivable. Pretty much everything in the office.

15 Q Did you personally supervise the plaintiffs' job?

16 A No.

17 Q So you testify you actually did bookkeeping at  
18 Wing Keung; is that correct?

19 A Yes.

20 Q What kind of bookkeeping job did you do?

21 A I just indicated accounts payable, accounts receivable.

22 Q I'm sorry.

23 A Accounts payable, accounts receivable.

24 Q Accounts receivable.

25 How about time records and pay records?

*S. Chan - Direct/Ms. You*

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1 A Yes, I take care of that as well.

2 Q So you are familiar with the time record and the pay  
3 practice of the Wing Keung; is that correct?

4 A Yes, I made it.

5 Q I have some documents premarked as Plaintiff's Exhibit  
6 P-1 that I'm going to show you.

7 A Okay.

8 (Approaching the witness.)

9 Q Please take a look at that document.

10 Could you tell me what's the document you're looking  
11 at?

12 A This is the payroll records for all -- for Chaohui Tang.

13 Q Did you submit the document to the Court?

14 A Not yet. I don't think so. Right, Gail? I'm not sure.

15 THE COURT: Only if you know. Only answer what you  
16 know.

17 THE WITNESS: I don't know.

18 Q So you don't know, okay.

19 But do you think they're a true copy of the  
20 Wing Keung 's time record for the plaintiffs?

21 Do you think that's the true copy?

22 THE COURT: Do you recognize them as an accurate  
23 copy --

24 THE WITNESS: Yes.

25 THE COURT: -- of the payroll?

*S. Chan - Direct/Ms. You*

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1 Q Of the plaintiff, Chaohui Tang.

2 A If this is what my lawyer gave you have, yes, because I  
3 gave her a copy of my original.

4 Q So you believe that's an accurate record of plaintiff,  
5 Chaohui Tang; is that correct?

6 A Yes.

7 Q I'm going to give you another document that is marked as  
8 Exhibit P-2.

9 THE COURT: No, I'm not going to allow your summary.  
10 The summary has nothing to do with what he created.

11 MS. YOU: Your Honor, I'm going to request that that  
12 document be admitted into evidence.

13 THE COURT: Is there any objection?

14 MS. SPINDLER: No, your Honor.

15 THE COURT: So it's Document No. 1?

16 MS. YOU: P-1.

17 THE COURT: No, what I'm saying is what is the ECF  
18 document you are taking this from?

19 MS. YOU: 43, Exhibit C.

20 THE COURT: Okay. So it's ECF 43, Exhibit C, and  
21 it's Plaintiff's 1. And the reason I'm why asking that is to  
22 make clear on the record, Ms. You, you did not come with  
23 multiple copies of the document. Ms. Spindler does not have a  
24 copy of what has been given to the witness. I'm not allowing  
25 the summaries.



*S. Chan - Direct/Ms. You*

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1 MS. YOU: I'm going to show him.

2 THE COURT: What?

3 MS. YOU: Show the witness this document.

4 THE COURT: What is that document?

5 MS. YOU: This is document just so he can compare  
6 this document.

7 THE COURT: What is that document?

8 MS. YOU: This is the summary of the --

9 THE COURT: Who prepared the summary?

10 MS. YOU: I prepared it.

11 THE COURT: Then you cannot.

12 MS. YOU: The Federal Rules of Evidence allow  
13 summaries.

14 THE COURT: I'm not allowing it. You didn't give it  
15 to anybody before the hearing, I'm not allowing it. We're not  
16 comparing the chart that you prepared to hundreds of pages of  
17 documents.

18 MS. YOU: Okay, your Honor.

19 THE COURT: We are not doing that now.

20 MS. YOU: That's fine.

21 (Plaintiff's Exhibit P-1, ECF Docket Entry 43,  
22 Exhibit C, was received in evidence as of this date.)

23 THE COURT: Ms. You, let me be clear on the record.  
24 Had you asked the Court prior to the hearing that there was a  
25 summary that you were preparing so everybody could look at

*S. Chan - Direct/Ms. You*

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1 that summary and make sure that all of the records that you're  
2 saying were summarized were accurate, there could be a pay it  
3 introduce such evidence. But this is not the time to give a  
4 document you prepared with hundreds of pages of documents to  
5 compare it to. Nobody is going to take your summary on the  
6 fly as an accurate statement of what the records show.

7 EXAMINATION BY

8 MS. YOU:

9 (Continuing.)

10 Q Let's look at document I hand to you. On the top of  
11 document, there is page I.D. Let's go to the 2076 page I.D.  
12 on the top of it the right corner.

13 A (Complying). Could you repeat that.

14 THE COURT: 2076 and you don't have a copy for  
15 Ms. Spindler or the Court. Ms. You.

16 MS. YOU: Yes.

17 THE COURT: Ms. You, never come to a court hearing.

18 MS. YOU: Right.

19 THE COURT: With just one copy of something that you  
20 plan to question a witness on. It's unbelievable that this is  
21 what you did. This was your chance to prove something and you  
22 came with one copy. It's not her's, it's yours. Continue on.

23 MS. YOU: I just want to tell her it's Docket 43 and  
24 page number is 2076.

25 MS. SPINDLER: I already wrote it down.

*S. Chan - Direct/Ms. You*

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1 MS. YOU: Thank you.

2 EXAMINATION BY

3 MS. YOU:

4 (Continuing.)

5 Q So, looking at the time record showing on this page, are  
6 you following me?

7 A Yes.

8 Q It's 2076?

9 A Yes.

10 Q And there is out time, you would say, 4:02 p.m., did you  
11 see that now? Out. And 4:00 p.m., and the 7:47 p.m., and the  
12 4:54 p.m. This time did you look at it?

13 A Yes.

14 Q There's some number with plus sign. Could you explain to  
15 me what plus sign means?

16 A Plus sign is manual inputs.

17 Q I'm sorry?

18 A Manual inputs.

19 Q Who manual?

20 A I would manually input it.

21 Q You? You did that?

22 A Yes, the plus sign is manual inputs.

23 Q Who would do that?

24 A I would do it.

25 Q You would do it?

*S. Chan - Direct/Ms. You*

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1 A Yes.

2 Q Anybody else did that beside you?

3 A Besides me, there would be my assistant, Ms. Wong, and  
4 then another one, my cousin, he's also he works with me.

5 Q What is the name of your cousin?

6 A Steven Chan.

7 Q Steven Chan?

8 A Yes.

9 Q What's the other person, I'm sorry, could you repeat?

10 THE COURT: Steven Chan and Ms. Wong.

11 Go ahead.

12 MS. SPINDLER: May I ask what week this is for that  
13 you're looking at?

14 THE WITNESS: This is for the week of October 1,  
15 2011, to October 7, 2011.

16 MS. SPINDLER: Okay.

17 THE COURT: And who is the record for?

18 THE WITNESS: Chaohui Tang.

19 EXAMINATION BY

20 MS. YOU:

21 (Continuing.)

22 Q When you manually input 4:00 p.m., what was the basis you  
23 further that time entry?

24 A When the drivers come back from the delivery.

25 THE COURT: Slow down.

*S. Chan - Direct/Ms. You*

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1 THE WITNESS: When the drivers come back from the  
2 delivery, they would hand back a cover sheet. The cover sheet  
3 would state what time they come back.

4 Q What kind of cover sheet you mention?

5 A I don't have a copy for you.

6 Q So what is the purpose of the cover sheet?

7 MS. SPINDLER: Objection.

8 Q What is the purpose of the cover sheet?

9 A The cover sheet, the purpose is, it shows the summary,  
10 not a summary, they receive, like, a total of invoices on the  
11 route including the driver's name, the helper's name, the  
12 date, what route number they are on, the date run. Any  
13 returns, any missing items. The start time, the end time, and  
14 the mileage if they remember to enter it.

15 Q So it's your testimony you always enter the time with the  
16 plus sign according to the cover sheet; is that correct?

17 A Not always. Sometimes the driver and the things they  
18 don't fill it out, so we would use either the driver's name  
19 because they return at the same time. They return at same  
20 time, they leave at same time. We use the driver's time, his  
21 sign out. If we don't have both the information then I'll ask  
22 the employee, not employee, employer, I'm the employer, I'm  
23 sorry. The employee directly.

24 THE COURT: Let me ask. You're saying that the  
25 driver would be told to hand in a cover sheet --

*S. Chan - Direct/Ms. You*

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1 THE WITNESS: Yes.

2 THE COURT: -- and that the cover sheet would say  
3 the start time and the end time.

4 THE WITNESS: Of the route.

5 THE COURT: And if they gave you that cover sheet,  
6 you would input that time for both the driver and for the  
7 person who loaded the truck who was not the driver?

8 THE WITNESS: Not both the driver. Just only if  
9 they didn't punch out themselves.

10 THE COURT: If the driver didn't punch out or the  
11 assistant like these gentlemen?

12 THE WITNESS: Anybody. If the driver didn't punch  
13 out or the assistant.

14 THE COURT: So you used the cover sheet to put a  
15 punch-out time?

16 THE WITNESS: Yes.

17 THE COURT: And so, it was an override for the  
18 identification system that you had?

19 THE WITNESS: No, only when it was blank.

20 THE COURT: Excuse me.

21 THE WITNESS: It's an override. Because if it's  
22 blank it would show a question mark instead, so I would have  
23 to manually input that time.

24 THE COURT: And so, how often did you have to  
25 manually input time?

*S. Chan - Direct/Ms. You*

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1 THE WITNESS: It really depends. Sometimes. Maybe  
2 sometimes a lot of drivers keep forgetting when they punch  
3 out. Sometimes they forget in the morning, too.

4 THE COURT: When did you start working at  
5 Wing Keung?

6 THE WITNESS: I'm guessing the end of 2009,  
7 beginning of 2010.

8 THE COURT: And you have been in the same job of  
9 doing the payroll records and accounts?

10 THE WITNESS: Yes.

11 THE COURT: And did the payroll system change over  
12 the course of the time that you were there.

13 THE WITNESS: Yes.

14 THE COURT: And so, can you speak to what the first  
15 system was and when it was changed, and what the second system  
16 was.

17 THE WITNESS: Okay. When I first went into the  
18 company, I saw that our payroll system, not payroll system,  
19 but the sign-in sign-out machine wasn't that great so I  
20 changed it to the fingerprint recognition which it was  
21 purchased from Latham, the company Latham.

22 THE COURT: What was the system when you got there,  
23 sir?

24 THE WITNESS: The system when I got there was a  
25 third-party -- some custom made. It was a computer with just

*S. Chan - Direct/Ms. You*

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1 input the I.D. number and the password. Each employee would  
2 input an I.D. and a password.

3 THE COURT: So it wasn't a really time clock with a  
4 punch?

5 THE WITNESS: It was just a computer with a keyboard  
6 and monitor and the software is always loaded.

7 THE COURT: That was in 2009?

8 THE WITNESS: That was 2009.

9 THE COURT: And when did you get this Latham system?

10 THE WITNESS: Once when I started working there  
11 maybe, like, two months in. For time sake, exact dates I  
12 don't know. I don't remember.

13 THE COURT: But it was 2009.

14 THE WITNESS: I'm guessing a little later. 2010  
15 mostly.

16 THE COURT: And can you describe that system?

17 THE WITNESS: That system I purchased from Latham.  
18 It's a fingerprint recognition, so, basically, the employee  
19 you have to place their finger on to punch in and sign out and  
20 it's very simple.

21 THE COURT: And where did that fingerprint  
22 recognition system get placed at the company?

23 THE WITNESS: On the office counter by the door.

24 THE COURT: So it's not on a wall?

25 THE WITNESS: No.



*S. Chan - Direct/Ms. You*

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1 THE COURT: It's on a table?

2 THE WITNESS: It's on a counter, yes.

3 THE COURT: And is it movable?

4 THE WITNESS: It's movable, yes.

5 THE COURT: And does it get moved?

6 THE WITNESS: No.

7 THE COURT: And what happens when people come back  
8 after the office is closed?

9 THE WITNESS: The office is never closed almost.  
10 It's not -- I won't say never. The office hours are closed  
11 after 3:00, 4:00. What do you call it. The people stood by.  
12 Then we always have staff inside the office until maybe  
13 midnight.

14 THE COURT: So when you say the office closes after  
15 3:00 for people, what does that mean?

16 THE WITNESS: So no one can purchase. The customers  
17 can't come in to purchase more.

18 THE COURT: So you do both a retail business out of  
19 Wing Keung?

20 THE WITNESS: Yes.

21 THE COURT: And you are saying the people that the  
22 office closes to are not your employees but customers?

23 THE WITNESS: Customers, yes.

24 THE COURT: And so, what if these people were  
25 driving long shifts?

*S. Chan - Direct/Ms. You*

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1 THE WITNESS: They would come back, they would buzz  
2 in, and the office would let them in.

3 THE COURT: Even if it's midnight?

4 THE WITNESS: Yeah, I guess. It depends.

5 THE COURT: Only if you have personal knowledge.

6 THE WITNESS: Personal knowledge, it wouldn't. They  
7 normally close at midnight. It depends on when the employees  
8 leave. So I would say 12:30 to 1:00 is the last person, but  
9 I'm not sure.

10 THE COURT: Ms. You.

11 EXAMINATION BY

12 MS. YOU:

13 (Continuing.)

14 Q Did you testify when you testified you would verify with  
15 the cover page or verify with the employee?

16 A I verify with the cover page first, and then I verify it  
17 with the other sign-ins with the other driver. So I don't  
18 have to bother the employee.

19 Q Other employee, okay. So were there any time that you  
20 didn't get a verification by punch -- the plus sign time entry  
21 anyway?

22 A No.

23 Q You never did that?

24 A No.

25 Q So you always verify with either cover sheet or with

*S. Chan - Direct/Ms. You*

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1 somebody; is that correct?

2 A Yes.

3 Q Let's look at the plus sign you have on the time record,  
4 okay?

5 A Okay.

6 THE COURT: A particular page?

7 MS. YOU: Yes.

8 Q So let's go to 2076 first?

9 A Okay.

10 Q Plus sign is for the October 3, 2011?

11 A Yes.

12 Q This employee out at 4:00 o'clock p.m. shift?

13 A Okay.

14 Q Then the second day, this employee arrive at the facility  
15 at 8:30 a.m. shift?

16 A Okay.

17 Q With plus sign?

18 A Okay.

19 Q Let's go to the next plus sign. Of course, this is  
20 October 6th. It's 7:41 a.m.?

21 A Mm-hmm.

22 Q Then -- my mistake there is no plus sign, okay.

23 And then the next plus sign is 4:00 o'clock p.m.  
24 shift.

25 A Okay.

*S. Chan - Direct/Ms. You*

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1 Q Then let's look at October 7th. This employee arrived at  
2 the facility at 8:30 a.m. shift; is that correct?

3 A Yes.

4 Q Let's go to the question. There is a small star sign --

5 A Okay.

6 Q -- at some time. Do you see that?

7 A Yes.

8 Q Okay.

9 And, at the top page, there is a -- to the right --  
10 there is a tardy. Did you see that, tardy?

11 A Yes.

12 Q What does sign mean?

13 A You just did it. It means tardy.

14 Q It means people tardy; right?

15 Let's go to the next page I.D., 2078.

16 This employee, Ms. Wong, you have plus sign at  
17 10:00 o'clock a.m. shift and out at 8:00 o'clock p.m. shift;  
18 is that correct?

19 A Yes.

20 Q Okay. Let's go to the October 14th. It's 10:00 a.m.  
21 shift?

22 THE COURT: No. This is so meaningless because we  
23 don't have the records and you're just reading them off and  
24 can you get to what the question is, please, Ms. You.

25 Q So is it your testimony this employee, Tang, always

*S. Chan - Direct/Ms. You*

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1 return from the delivery at 8:00 p.m. shift and left -- I'm  
2 sorry, left, I'm sorry, the second that they arrive at the  
3 business starting working at 10:00 o'clock a.m. shift?

4 A No.

5 MS. SPINDLER: Objection to the question.

6 THE COURT: I have no idea what you're talking  
7 about.

8 MS. YOU: I will rephrase it.

9 Q So, based on the record we review, at least the three  
10 days, employee Tang always left the job for the day at  
11 8:00 o'clock shift and always started work the second day at  
12 10:00 o'clock shift; is that correct?

13 A This is not always because there's other times on the  
14 thing that says 9:03 and 6:49 and all these numbers here.

15 Q I'm sorry.

16 A There are so many numbers everywhere else.

17 Q I am talking about the number with the plus sign.

18 A Yeah, but then you show me other records from before. It  
19 says 4:00 to 8:30. How is that always, also?

20 Q Which page?

21 A The one right before it.

22 THE COURT: Again.

23 A Page I.D. 2076.

24 THE COURT: This is on you because we do not have  
25 these records. So I cannot follow these records and what

*S. Chan - Direct/Ms. You*

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1 you're trying to prove but the witness just said it is not  
2 always the same time with the plus record.

3 THE WITNESS: Well, just comparing these two  
4 documents that she just told me to look at.

5 THE COURT: 2076 and 2078?

6 THE WITNESS: Yeah.

7 EXAMINATION BY

8 MS. YOU:

9 (Continuing.)

10 Q Did you always punch the record for the employee at a  
11 fixed time all the time?

12 A No.

13 Q So could you point out on the record which time is  
14 different than 8:00 o'clock and 10:00 o'clock?

15 Take your time to review the record.

16 A Your page I.D. number 2076 that you just told me to look  
17 at --

18 Q 2076.

19 A You said it was 4:00 and 8:30.

20 Q So you punched the record at 4:00 o'clock, 8:30. Any  
21 other time you punched the with plus sign for the employee?

22 A Do I have to go through all this?

23 THE COURT: You don't have to go through all of  
24 that. You can look at pages and point out where she is wrong  
25 that it's not 8:30 and not 4:00.

*S. Chan - Direct/Ms. You*

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1 THE WITNESS: There is page I.D. 2156. There is a  
2 6:00 o'clock a.m.

3 MS. YOU: 6:00 a.m.

4 THE COURT: That has a plus sign?

5 THE WITNESS: Yes, that's a plus sign.

6 Q 6:00 o'clock. Any other time?

7 A Let me look.

8 Q You have 6:00, 10:00, 8:00, and 4:00. Any other time  
9 entry for the employee?

10 A You have the 8:30 and you have the 4:00. You have the  
11 10:00 a.m. You have the 10:00 a.m., you have the 10:00 p.m.,  
12 the 4:00 p.m., the 8:30 a.m. I just stated the 6:00 a.m.  
13 There's probably more here.

14 THE COURT: I don't need any more. Your testimony  
15 is you didn't always punch at the same time and that you were  
16 always verified with either a cover sheet or with a driver.

17 THE WITNESS: There's one more sheet I just found.  
18 Page I.D. 2274, the driver returned at 4:15 p.m.

19 Q I'm sorry, 22?

20 A 2274.

21 THE COURT: 4:15.

22 A 4:15 p.m. with a plus sign.

23 Q Okay. This is 3:04 p.m.?

24 A That's page I.D. 2274.

25 THE COURT: Ms. You, do you want to ask him about

*S. Chan - Direct/Ms. You*

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1 any of the payments made? How they were paid?

2 MS. YOU: No, I want to ask the time record first  
3 because I think this is about falsified employment record.

4 THE COURT: And, again, what is your question?

5 MS. YOU: Okay.

6 EXAMINATION BY

7 MS. YOU:

8 (Continuing.)

9 Q Let's go to Page 2155.

10 A (Complying).

11 Q Okay. Actually 2156, okay. The next page, 2156.

12 A Mm-hmm.

13 Q Are you looking at it?

14 A Yes.

15 Q This is the plaintiff, Tang's, time record.

16 And for this week, Mr. Tang actually left the job  
17 before 4:00 o'clock five times, five days, among the six-day  
18 period.

19 A Yes.

20 Q Did you see that?

21 A Yes, I see it.

22 Q So do you think it's usual the employee left --

23 THE COURT: I don't care what's usual. I'm just  
24 asking you to questions regarding the record. Are there plus  
25 signs on this 2156 record, is that why you're asking about



*S. Chan - Direct/Ms. You*

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1 that record?

2 THE WITNESS: No, there's no plus signs.

3 THE COURT: So why are you asking about that record?

4 EXAMINATION BY

5 MS. YOU:

6 (Continuing.)

7 Q So, for the record, you believe based --

8 MS. YOU: Okay, that's fine.

9 Q So let's look at the tardy sign also on the same page.  
10 6:04 a.m. There is a tardy sign over there?

11 A Okay.

12 Q So what was the time supposed for employee to come  
13 without this tardy sign?

14 A It's just -- I set it up as of 6:00 o'clock.

15 Q So 6:00 o'clock is the time you told the employee to  
16 come; is that correct?

17 A Mm-hmm.

18 Q So while employee arrives late, there is a tardy sign  
19 entered there; is that correct?

20 A Yes.

21 Q So the regular hours for plaintiff Tang supposed to  
22 arriving at a facility is 6:00 o'clock?

23 A Not for all days.

24 THE COURT: Why don't you ask him? Have you asked  
25 him what were the times that the drivers or the assistants

*S. Chan - Direct/Ms. You*

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1 were supposed to arrive? I didn't hear any of those  
2 questions.

3 Q What was the time plaintiff Tang was supposed to come?

4 A For him specifically?

5 Q (Nodding)?

6 A Saturdays -- no, not for him specifically. For drivers,  
7 specifically, at that time --

8 Q I'm talking about the plaintiff Tang specifically?

9 THE COURT: If did you don't know, say you don't  
10 know.

11 THE WITNESS: I don't know.

12 Q So you don't know what Mr. Tang would be required to  
13 come?

14 A I don't know.

15 Q So you, as a representative of Wing Keung, you did not  
16 recall Mr. Tang to come at 6:00 o'clock; is that correct?

17 THE COURT: He said that he was the bookkeeper and  
18 the accountant, he did not supervise the workers. Why don't  
19 you ask him, did he make the schedules for the workers?

20 Q Did you make the schedule for plaintiff Tang?

21 A No.

22 Q Who did you make the schedule for plaintiff Tang?

23 A That was the manager who took care of the drivers and the  
24 workers.

25 Q What was the name of the manager?

*S. Chan - Direct/Ms. You*

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1 A There was quite a few. There would be Chen Fen Zhen. My  
2 father, actually, he was the owner of the company, he would  
3 take care of the schedule as well. Keung Chan.

4 Q So Mr. Chen Fen Zhen made the schedule for the fees like  
5 plaintiff Tang; is that correct?

6 A I'm not sure for him. I don't know. I don't know.

7 Q So when there is a tardy sign over there, you didn't  
8 understand what that means for the bookkeeping purpose?

9 A I didn't state that.

10 Q So what does that mean?

11 A It means he's tardy, that's it.

12 Q So what would happen when the plaintiff's employee --  
13 when Mr. Tang was tardy on that day?

14 A Nothing.

15 Q Was there any penalty in connection with the tardy?

16 A No.

17 Q Was there any deduction of the wage for that tardy?

18 A He's paid what he came in for. If he came four minutes  
19 late, he's not paid four minutes. That's right on here.

20 Q If he was late for 30 minutes, were there any deductions  
21 for the pay?

22 A If you're late 30 minutes, you're deducted 30 minutes.

23 Q So he would be deducted 30 minutes wage if he was late  
24 for 30 minutes; is that correct?

25 A Not deducted, he wouldn't be calculated for it.

*S. Chan - Direct/Ms. You*

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1 Q He wouldn't be calculated for the time he was --

2 THE COURT: Okay. I got it. If they came four  
3 minutes late, they didn't get four minutes of pay. If they  
4 came 30 minutes late, they didn't get 30 minutes of pay.  
5 Let's move on.

6 I still don't know if they're paid hourly or weekly  
7 or monthly. I have no idea because you're not asking the  
8 questions.

9 Q Did the employee -- did Mr. Tang get paid on a monthly  
10 basis or weekly basis?

11 A Monthly basis.

12 Q How much Mr. Tang was paid for month?

13 A If you're asking me about money I don't know. It's  
14 different every week.

15 THE COURT: Why is it different?

16 THE WITNESS: We're on an hourly basis. So we pay  
17 them by the hour and then we have -- we pay them by the month.  
18 We pay them one time a month for up to how many Fridays are  
19 there in the month. So if a month had five Fridays, we paid  
20 him up to five weeks of time or four Fridays, it would be up  
21 to four weeks.

22 THE COURT: Did they have to sign pay sheets when  
23 they got paid?

24 THE WITNESS: Yes.

25 THE COURT: How were those pay sheets prepared?

*S. Chan - Direct/Ms. You*

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1 THE WITNESS: By the Latham software that came with  
2 the program with the machine.

3 THE COURT: And were they translated into Chinese?

4 THE WITNESS: No, they don't have a translation.

5 EXAMINATION BY

6 MS. YOU:

7 (Continuing.)

8 Q Did they actually sign any paper when they get paid?

9 A Yes. It's right here.

10 THE COURT: The pay sheets. That's what I just  
11 asked him.

12 Q So beside this pages they sign, was there anything else  
13 they signed on a monthly basis?

14 A No.

15 THE COURT: So that's the only paper they sign?

16 THE WITNESS: Yes.

17 Q When they get paid?

18 A Yes.

19 Q Was there -- was another monthly statement about how many  
20 days those employee worked?

21 A No.

22 Q They have -- would they sign something else for the day  
23 they take off when they get paid?

24 MS. SPINDLER: Objection.

25 THE COURT: Why would you sign something for the day

*S. Chan - Direct/Ms. You*

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1 you take?

2 THE WITNESS: I don't know.

3 Q You don't know if they didn't sign anything else?

4 A I don't know what you're talking about.

5 Q You don't know what I'm talking about? Okay.

6 THE COURT: Ms. You, I'm going to ask you to move  
7 along. It's now 5:30, you have one more witness. She has the  
8 right to cross-examine.

9 MS. YOU: Let he me show you another document.

10 THE COURT: Ms. You, I'm giving you five more  
11 minutes with this witness.

12 Don't be marking anything before I know what you're  
13 trying to get in.

14 MS. YOU: Sure. This is plaintiff's submission,  
15 Docket No. 42, and it's exhibit, I'm sorry, one moment.  
16 Exhibit B.

17 THE COURT: What is it?

18 MS. YOU: It's a gas receipt and the route A/R  
19 invoice.

20 THE COURT: Why do I need that?

21 MS. YOU: Because I want to --

22 THE COURT: Why do I need that?

23 MS. YOU: Because there is time entry.

24 MS. SPINDLER: We don't know if this is Mr. Tang's  
25 route. They have how many trucks? It could be anybody's

*S. Chan - Direct/Ms. You*

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1 receipt.

2 MS. YOU: That's okay. We just want to know.

3 THE COURT: Again, I'm not allowing it. Move on.

4 MS. YOU: No, this is very crucial.

5 THE COURT: I'm not allowing.

6 MS. YOU: There's a lot of record --

7 THE COURT: Ms. You, you are so unprepared. You are  
8 going to give him receipts to look at that he's supposed to  
9 verify as if he remembers receipts from 2011?

10 MS. YOU: That's their submission. They're supposed  
11 to already review it before submitting it.

12 THE COURT: Again, he's not going to remember what  
13 he reviewed in 2011. I wouldn't remember if it was a gas  
14 receipt given to me.

15 Any other questions.

16 MS. YOU: I want to move this -- this is the direct  
17 party admission by the time record.

18 THE COURT: Again, ma'am, these are gas receipts  
19 that you did not bring extra copies of. You now want him to  
20 look at hundreds of pages of gas receipts and authenticate  
21 that these are actually records that he knows are from the  
22 business? I'm sorry.

23 MS. YOU: Your Honor, I just have two questions with  
24 respect to gas receipts.

25 THE COURT: I'm not letting you give him the

*S. Chan - Direct/Ms. You*

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1 documents, but if you want to ask him gas receipt questions  
2 you have two minutes.

3 EXAMINATION BY

4 MS. YOU:

5 (Continuing.)

6 Q Was there a gas station in New Jersey Wing Keung usually  
7 had employees to get gas at?

8 A I don't know. I don't fill gas.

9 Q You don't fill gas?

10 A I only work in the office. How would I fill gas? How  
11 would I know?

12 Q So did you review this gas receipt actually submitted  
13 with your affidavit. And I'm going to give you the affidavit  
14 you submit with -- with your opposition to the motion.

15 THE COURT: Why are you giving him the affidavit?  
16 Did he contradict his testimony in some way?

17 MS. YOU: For this gas receipt actually submitted  
18 together with his affidavit.

19 THE COURT: Very good. I'm telling you to move on.  
20 You have two more questions and you're done.

21 Anything else?

22 MS. YOU: No, your Honor. I am just looking at the  
23 record.

24 THE COURT: So you're done. Please be seated.

25 Ms. Spindler, generally speaking, you could



*S. Chan - Direct/Ms. You*

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1 cross-examine but you were going to call Mr. Chen as your own  
2 witness.

3 MS. YOU: No, your Honor. I am just looking at the  
4 page about the affidavit of --

5 THE COURT: And what are you looking at, ma'am? I'm  
6 telling you, ask a question or you're done. Ask a question or  
7 you're done.

8 EXAMINATION BY

9 MS. YOU:

10 (Continuing.)

11 Q On your affidavit No. 18, you state, "Wing Keung made in  
12 connection with its overnight and long distance delivery route  
13 which annexed here as part of Exhibit B were made in a regular  
14 course of business at or about the time reflected on the  
15 record and as part of the Wing Keung business."

16 Did you make that statement?

17 MS. SPINDLER: I don't even understand what she  
18 said.

19 THE WITNESS: I don't understand.

20 THE COURT: I don't understand what she said either.

21 MS. YOU: I can give your Honor the affidavit.

22 THE COURT: Again --

23 MS. YOU: I can just read from the affidavit.

24 THE COURT: You're reading from an affidavit and  
25 asking him, did he make that statement? Do you want to show

*S. Chan - Direct/Ms. You*

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1 him an affidavit.

2 MS. YOU: I will:

3 (Approaching the witness.)

4 THE COURT: Ms. You, you have not represented your  
5 clients well.

6 No, I don't want to see it.

7 Ask the question. Ms. You, ask the question.

8 MS. YOU: I will.

9 EXAMINATION BY

10 MS. YOU:

11 (Continuing.)

12 Q On the No. 18, could you turn to the No. 18?

13 THE COURT: Ask him what this is.

14 Q Could you identify the document for me?

15 A This is the affidavit for my opposition.

16 Q Okay. Let's turn to the last page. Let's turn to the  
17 last page.

18 A Okay.

19 Q The last page?

20 A Yes.

21 Q Is that your signature?

22 A Yes.

23 Q Let's go to the No. 18. Wing Keung A/R. Could you read  
24 that No. 18 for?

25 A "Wing Keung's A/R invoices made in connection with its

*S. Chan - Direct/Ms. You*

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1 overnight and long distance delivery routes which are," I  
2 don't know what this word is.

3 THE WITNESS: Annexed?

4 THE COURT: Yes.

5 A "Annexed hereto as a part of Exhibit B were made in the  
6 regular course of business at or about the time reflected on  
7 the record and as part of Wing Keung's business."

8 Q Okay.

9 I have your Exhibit B attached to this affidavit. I  
10 want to show --

11 THE COURT: Okay, Ms. You, I'm letting you ask your  
12 question.

13 What's your question?

14 Q So under this Exhibit B attached to the affidavit,  
15 80 percent of these gas receipts show the time.

16 THE COURT: Is there a question? You're not allowed  
17 to testify.

18 MS. YOU: Right, your Honor.

19 THE COURT: This is your argument.

20 MS. YOU: Could I give him --

21 THE COURT: No. I've already said I'm not going to  
22 have him go through a pile of gas receipts.

23 MS. YOU: Okay.

24 ///

25 ///

*S. Chan - Direct/Ms. You*

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1 EXAMINATION BY

2 MS. YOU:

3 (Continuing.)

4 Q Let me ask you a question.

5 You reviewed the gas receipts before you submitted  
6 to the Court; is that correct?

7 A No.

8 Q So you didn't review the gas receipts before you  
9 submitted to the Court?

10 A I reviewed briefly.

11 Q You reviewed briefly the gas receipts?

12 A Yes.

13 Q Did you recall each gas receipt there is a time entry?

14 A No.

15 Q So you didn't recall there's time entry on the gas  
16 receipts?

17 A I don't know.

18 Q Do you recall what were those time entries on the gas  
19 receipts?

20 A I just stated I didn't recall it.

21 Q So did you believe if there is time entry on the gas  
22 receipts, that's time entry in connection with overnight  
23 delivery?

24 THE COURT: I don't understand the question.

25 THE WITNESS: I don't understand.

*S. Chan - Cross/Ms. Spindler*

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1 Q So you testified just now you testified?

2 THE COURT: Excuse me. I said you have five more  
3 questions, you've gone way more than five. Please go back to  
4 your seat.

5 Now, do you want to call him as your own witness or  
6 do you want do cross him?

7 MS. SPINDLER: I might be able to save some time if  
8 I can question Mr. Chen.

9 CROSS-EXAMINATION

10 BY MS. SPINDLER:

11 Q On these receipts that you were shown by Ms. You that the  
12 employees sign once a month, plaintiff Tang signed once a  
13 month, what information is on those pages that Mr. Tang  
14 signed?

15 A The hours where they punch in and sign out.

16 Q And how about his pay?

17 A His pay is reflected on his hours.

18 Q And does it reflect how it was calculated?

19 A It shows on, yes, it comes on two pages. One page will  
20 show the actual time breakdowns, and the other page, first  
21 page, will show a summary.

22 Q Okay. And is there base hours?

23 A Yes.

24 Q And is there overtime reflected on these receipts?

25 A Yes.

*S. Chan - Cross/Ms. Spindler*

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1 Q Is there sometimes bonus hours reflected?

2 A Yes.

3 THE COURT: However, you have testified that it was  
4 not translated into Chinese; is that correct?

5 THE WITNESS: Yes.

6 THE COURT: And was it given, a copy of each of the  
7 sheets that you asked the employees to sign, was it given to  
8 the employees?

9 THE WITNESS: Usually, it is given to them, yes.

10 THE COURT: It is given to them?

11 THE WITNESS: Mm-hmm.

12 THE COURT: At the same time as they signed?

13 THE WITNESS: Yes.

14 THE COURT: And they're all going to testify that  
15 this was given to them?

16 THE WITNESS: I don't know. Maybe. I don't know.

17 THE COURT: Were you the one that gave it to them?

18 THE WITNESS: No.

19 THE COURT: So you don't have personal knowledge?

20 THE WITNESS: No.

21 THE COURT: You just believe that you were given  
22 copies?

23 Okay. Go ahead, Ms. Spindler.

24 ///

25 ///

*S. Chan - Cross/Ms. Spindler*

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1 EXAMINATION BY

2 MS. SPINDLER:

3 (Continuing.)

4 Q Does Wing Keung have a Buffalo route?

5 A No.

6 Q Do you go to Binghamton?

7 A Yes.

8 Q Did Mr. Tang ever go to Buffalo?

9 A No, because we don't have a Buffalo route.

10 MS. SPINDLER: No other questions.

11 THE COURT: You may step down. Thank you.

12 THE WITNESS: Do I give this back?

13 THE COURT: Yes. Thank you.

14 (Witness leaves the witness stand.)

15 THE COURT: Call your last witness, Ms. You. Go  
16 ahead.

17 (Witness takes the witness stand.)

18 COURTROOM DEPUTY: State your name, please.

19 THE WITNESS: Jian Lin Li.

20 COURTROOM DEPUTY: Raise your right hand.

21

22 JIAN LIN LI, called by the Plaintiff, having been first duly  
23 sworn/affirmed, was examined and  
24 testified as follows:  
25

*J. Li - Direct/Ms. You*

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1 THE WITNESS: Yes.

2 COURTROOM DEPUTY: You can sit.

3 THE COURT: Ms. You, I'm giving you ten minutes to  
4 complete your questioning.

5 DIRECT EXAMINATION

6 BY MS. YOU:

7 Q Mr. Li, what period of time were you an employee of  
8 Wing Keung?

9 A I went there on September 26th, '09, and worked 'till the  
10 2010, December. Second period was in 2013 on May 13th, and  
11 then I worked 'till January 9, 2014.

12 Q How much you get paid when you were employed by  
13 Wing Keung?

14 A When I first got there, it was 2,800 because I was a  
15 driver.

16 Q Thereafter what was your pay?

17 A After three months, I got \$100 increase.

18 Q After you come to the hearing, did you have the chance to  
19 review the time records of yours submitted by the defendants?

20 A I did.

21 Q Okay.

22 In the record, did you find a lot of entries before  
23 4:00 o'clock around the 3:00 to 4:00?

24 THE COURT: I don't understand what your question  
25 is.



*J. Li - Direct/Ms. You*

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1 Q What did you find on the time entry?

2 A I found out that a lot of them were false.

3 Q Why did you feel it was false?

4 A Because, on the record, it showed me that I left, like,  
5 before 2:00 o'clock, 3:00 o'clock, you know, that's  
6 impossible.

7 Q Why is it not -- did you leave often around relevant 2:00  
8 or 3:00 o'clock?

9 A Impossible.

10 Q Why is it impossible?

11 A Because, at the time, the company stipulated that off  
12 hour is 4:00 o'clock.

13 Q If you returned before 4:00 o'clock, like, say,  
14 2:00 o'clock, 3:00 o'clock, what would you do?

15 A We would not have been back because the amigo who came  
16 with us would not have been back either.

17 Q So was there any time you returned before 4:00 o'clock?

18 A I can't say no but very seldom.

19 Q Suppose you come back at 2:00 o'clock, what would you do.  
20 Could you leave at that time?

21 A We could leave, but the boss would say that the driver  
22 can leave but the person that went with the car, the vehicle,  
23 could not leave. But then, you know, to return before  
24 4:00 o'clock, like, 2:00 o'clock or 3:00 o'clock is just very  
25 seldom.

*J. Li - Direct/Ms. You*

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1 Q If the mover returned with you before 4:00 o'clock, would  
2 they be able to leave?

3 A They had to work.

4 Q Why they had to work?

5 THE COURT: Excuse me.

6 Q Did they have go to work?

7 THE COURT: I'm not going have him answer questions.  
8 May I ask him a couple of questions?

9 Mr. Li, you started as a driver?

10 THE WITNESS: Correct.

11 THE COURT: And, as a driver, what time would you  
12 get there in the morning?

13 THE WITNESS: 6:00.

14 THE COURT: And, generally, your route was local or  
15 was it far?

16 THE WITNESS: The first period of time, I went to  
17 Upstate New York. The second period, I went to Long Island.

18 THE COURT: Do you remember where in Upstate  
19 New York?

20 THE WITNESS: White Plains.

21 THE COURT: I'm only laughing because White Plains  
22 to me isn't very far.

23 And then where on Long Island?

24 THE WITNESS: I cannot really tell, it is far away.

25 THE COURT: And when you would come in at 6:00, how

*J. Li - Direct/Ms. You*

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1 would you clock in.

2 THE WITNESS: Use my fingerprint.

3 THE COURT: And where was that clock?

4 THE WITNESS: Right, sitting by the table next to  
5 the office.

6 THE COURT: And when you would come back at night,  
7 did you do the same thing?

8 THE WITNESS: Yes. If it's there.

9 THE COURT: If it's there. When wouldn't it be  
10 there?

11 THE WITNESS: Sometimes when it's very late, 7:00,  
12 8:00 p.m. they took it in.

13 THE COURT: And Mr. Chan said that the drivers could  
14 always go in the office when you would come back late, could  
15 you go into the office?

16 THE WITNESS: When we come back very late, we do it  
17 at the window. We would give the money at the window but we  
18 usually don't go inside.

19 THE COURT: Could you get to the clock?

20 THE WITNESS: We didn't go inside.

21 THE COURT: And how about a cover sheet? He said  
22 that there were drivers who would fill out a cover sheet, so  
23 that if you got back too late.

24 THE WITNESS: Yeah, that's not something we fill out  
25 when we come back. It's a sheet that they gave us when we

*J. Li - Direct/Ms. You*

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1 departed. Like, the invoice. Together with invoice, it was  
2 given to us.

3 THE COURT: And were you told how much you were  
4 going to be paid by the hour?

5 THE WITNESS: No.

6 THE COURT: You were never told how much you were  
7 being paid by the hour?

8 THE WITNESS: No.

9 THE COURT: So, from the time you started, you were  
10 told what you would be paid by the month?

11 THE WITNESS: The first time when I went, they said  
12 2,800 for the month.

13 THE COURT: So it wasn't even by the week?

14 THE WITNESS: No.

15 THE COURT: And Mr. Chan said that you'd have to  
16 sign something to get your pay?

17 THE WITNESS: At the end of the month, when they  
18 issued the salary they gave us four forms. And then we sign  
19 it, we hand it back to the office.

20 THE COURT: Did you ever get copies?

21 THE WITNESS: No.

22 THE COURT: And were you able to understand what the  
23 form was saying.

24 THE WITNESS: I didn't understand. One of them I  
25 could understand. And there was a form that says, you know,

*J. Li - Cross/Ms. Spindler*

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1 you were paid 2,800, whatever amount, and then I have to sign  
2 that on that form of paper.

3 THE COURT: So why did you have to keep track of  
4 what time you came in?

5 THE WITNESS: Well, in order for me, I wanted to  
6 have the job, the boss wanted me to punch finger, I punch  
7 finger. He never told us it was going to be calculated  
8 according to hours, it was always by the month.

9 THE COURT: Any other questions, Ms. You.

10 MS. YOU: Nothing further.

11 THE COURT: Ms. Spindler.

12 CROSS-EXAMINATION

13 BY MS. SPINDLER:

14 Q Were you always paid each month exactly \$2,800, or did  
15 that change by the month?

16 A The third month, I was increased to 2,900.

17 Q Did you always get \$2,900?

18 A If I, like, take one day off for some reason they will  
19 deduct one day.

20 THE COURT: How many days a week did you work?

21 THE WITNESS: Six days.

22 THE COURT: Every day except?

23 THE WITNESS: Sunday I'm off.

24 THE COURT: Thank you.

25 ///

*J. Li - Cross/Ms. Spindler*

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1 EXAMINATION BY

2 MS. SPINDLER:

3 (Continuing.)

4 Q Wasn't it true that you were fired from Wing Keung?

5 A Yes.

6 Q When were you fired?

7 A I don't know. Later on, I had someone translate for me.  
8 They claim that I stole something.

9 Q Was Mr. Tang also fired the same day you were fired?

10 A Yes.

11 Q You were fired together?

12 A Yes.

13 Q And was he also told that he was fired because they  
14 thought that he stole something?

15 A Yes.

16 Q And is that why you brought this lawsuit against  
17 Wing Keung?

18 A It's nothing to do with that.

19 Q Okay.

20 You said you reviewed your time records before you  
21 started this lawsuit; is that correct?

22 MS. SPINDLER: Withdrawn.

23 Q You said you reviewed the defendant's submissions of your  
24 time records?

25 A Yes.

*J. Li - Cross/Ms. Spindler*

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1 Q When you reviewed them, did you understand them?

2 A Basically, just hours was written on it.

3 Q And isn't that the same papers that you were given at the  
4 enter of every month?

5 A What do you mean?

6 Q At the end of every month, when you picked up your  
7 salary, you were asked to sign something. Wasn't that the  
8 same papers that you reviewed in this case?

9 A At that time, I was not even interested in those papers  
10 because I was getting the monthly salary. I did not have time  
11 to look at it because I was drawing a monthly salary.

12 Q So it would be fair to say that you didn't understand  
13 them because it was just that you didn't take the time to look  
14 at them?

15 A I did not spend the time to look at it.

16 Q Okay.

17 A First, I wouldn't understand it anyway in the English.

18 MS. YOU: Your Honor, I have one question.

19 THE COURT: She wasn't done. You don't get to stand  
20 up in the middle of her examination.

21 MS. YOU: Sure, yes.

22 MS. SPINDLER: I have nothing else.

23 THE COURT: Now, it's your turn.

24 ///

25 ///

*J. Li - Redirect/Ms. You*

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1 REDIRECT EXAMINATION

2 BY MS. YOU:

3 Q When you were terminated, were you given anything to show  
4 the reason of termination?

5 A No.

6 Q Were you given any documents to show the reason of the  
7 termination?

8 A I was given one piece of paper.

9 Q Was that paper in English or Chinese?

10 A English.

11 Q Did they ask you to sign that paper?

12 A He asked me to sign. I was asked to sign, I did not sign  
13 it.

14 Q Why didn't you sign it?

15 MS. SPINDLER: Objection.

16 A Because other companies, you know, they would give the  
17 Chinese piece of paper. Since they did not have it in  
18 Chinese, I asked them to translate. They wouldn't assist, I  
19 didn't sign.

20 Q Did you have this paper after you leave the job?

21 A Mine? I threw it away.

22 Q Do you understand what's?

23 THE COURT: Is there anything else?

24 MS. YOU: No. Thank you, your Honor.

25 THE COURT: Okay. Thank you very much. You may



*Colloquy*

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1 step down.

2 (Witness leaves the witness stand.)

3 THE COURT: Ms. Spindler, anybody else that you need  
4 to call.

5 MS. SPINDLER: Yes, I would like to call.

6 THE COURT: Let's take a break.

7 (A recess in the proceedings was taken.)

8 THE COURT: Okay.

9 THE WITNESS: Ms. Spindler, you are calling your  
10 next witness.

11 MS. SPINDLER: I have Mr. Feng Xu.

12 THE COURT: Please come up.

13 (Witness takes the witness stand.)

14 COURTROOM DEPUTY: Shall could you state your name,  
15 please, sir.

16 THE WITNESS: F-e-n-g. X-u.

17 COURTROOM DEPUTY: State your full name.

18 THE WITNESS: Feng Xu.

19

20 **FENG XU**, called by the Defendant, having been first duly  
21 sworn/affirmed, was examined and  
22 testified as follows:

23

24 THE WITNESS: Yes.

25 COURTROOM DEPUTY: You can sit.

*F. Xu - Direct/Ms. Spindler*

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1 THE WITNESS: Thank you.

2 DIRECT EXAMINATION

3 BY MS. SPINDLER:

4 Q Mr. Xu, for whom are you employed?

5 A I am an employee of Wing Keung Company.

6 Q How long have you been an employee of Wing Keung?

7 A Five years.

8 Q And what do you do for Wing Keung?

9 A Also a driver.

10 Q Okay.

11 And when you arrive in the morning, do you punch in?

12 A Yes.

13 Q And when you leave for the day, do you punch out?

14 A Yes.

15 Q And over the years, you used to use the fingerprint time  
16 clock?

17 A Yes. When I went there, it changed to fingerprints but  
18 before they used cards. But they changed it into the  
19 fingerprint method and then they use a new computer method  
20 that used facial.

21 Q And when you were clocking in with the fingerprint  
22 method, where was that machine located?

23 A It was right on the counter of the office.

24 Q When you arrived in the morning, was the fingerprint time  
25 clock always there?

*F. Xu - Direct/Ms. Spindler*

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1 A Yes.

2 Q When you left in the evening and concluded your work for  
3 the day, was the fingerprint time clock always there?

4 A Yes.

5 Q How late would you leave?

6 A I usually go to work about after 7:00 and then work until  
7 after 3:00, up to 5:00, 5:30.

8 Q And the time clock was always there when you left?

9 A Yes.

10 Q How often are you paid by Wing Keung?

11 A Once a month.

12 Q And when you pick up your salary, what papers are you  
13 given?

14 A I was given four pieces of paper.

15 Q And what information is on those four pieces of paper?

16 A How many days I work, how many hours I work, but for the  
17 month.

18 Q Do you sign something for Wing Keung?

19 A I did.

20 Q And do you keep any of the papers yourself?

21 A Usually. I don't keep records.

22 Q Okay. Can you keep it if you wanted to?

23 A I could, yes. Correct.

24 Q Okay. Do you get a meal break?

25 THE COURT: Wait. Let's go back.

*F. Xu - Direct/Ms. Spindler*

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1           How much he's paid and is it cash and check?

2     Q     How much are you paid? Are you paid on an hourly basis?

3     A     We are calculated by hours, but we always like to ask to  
4     be paid by the month not, like, every week.

5     Q     Your weekly -- when your hours are calculated, what is  
6     your base pay?

7           Your base pay for the first 40 hours you work.

8           The first 40 hours of work, what are you paid?

9           THE COURT: I'm going to stop that question.

10          You're paid monthly. What are you paid monthly?

11          THE WITNESS: 2,900. Later on increased to 3,000.

12          THE COURT: And did that change?

13          THE WITNESS: No.

14          THE COURT: So it was 2,900 a month and then it was  
15     later 3,000 a month?

16          THE WITNESS: Correct.

17          THE COURT: And it didn't matter how many hours?

18          THE WITNESS: Sometimes, you know, we conducted,  
19     occasionally, we will be earlier or later we get a little bit  
20     extra.

21          THE COURT: Were you ever told what you were paid  
22     per hour?

23          THE WITNESS: Yes. They would pay according to the  
24     legal -- the law.

25          THE COURT: So what is that? What do you get per

*F. Xu - Direct/Ms. Spindler*

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1 hour.

2 THE WITNESS: I was getting a little bit over \$9 or  
3 so.

4 THE COURT: \$9 an hour?

5 THE WITNESS: Yes, over \$9.

6 THE COURT: And did you ever work more than 40 hours  
7 a week?

8 THE WITNESS: I don't think so, but usually around  
9 that figure.

10 THE COURT: So did you have to work six days a week?

11 THE WITNESS: Yes.

12 THE COURT: And if you worked six days a week, were  
13 they all the same hours that you would get?

14 THE WITNESS: Yes, basically, yes.

15 THE COURT: So from a little bit after 7:00 in the  
16 morning to about 4:00 o'clock in the afternoon?

17 THE WITNESS: Yes.

18 THE COURT: And that was six days a week?

19 THE WITNESS: Yes.

20 THE COURT: Okay. Ms. Spindler.

21 EXAMINATION BY

22 MS. SPINDLER:

23 (Continuing.)

24 Q Are any of those hours overtime hours?

25 A No. Sometimes I would get overtime and I get a little

*F. Xu - Cross/Ms. You*

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1 bit more.

2 Q Okay. Meals. Do you take a meal break?

3 A Yes, I did.

4 MS. SPINDLER: I have nothing else.

5 THE COURT: Ms. You.

6 CROSS-EXAMINATION

7 BY MS. YOU:

8 Q Were you when you were employed by Wing Keung, which  
9 route did you drive?

10 A I did the Long Island route, I did Upstate, and I did  
11 New Jersey.

12 Q It took various time for different route? Did it take  
13 various time for different route?

14 THE INTERPRETER: Arrival time, you mean?

15 THE COURT: I think she's saying various but we  
16 can't understand her.

17 Can you rephrase the question?

18 Q Did it take different times for different route when you  
19 drive a different route?

20 A Right.

21 Q But you always either pay 29,000 or 30,000?

22 THE COURT: No, 2,900.

23 Q 2,900 or 30-hundred?

24 THE COURT: 3,000.

25 Q Is that correct?

*F. Xu - Cross/Ms. You*

111

1 A Yeah. But it depends on how many hours, you know, so  
2 it's calculated by hours.

3 Q Let's talk about meal break.

4 How did you take your meal every day?

5 A I was given half an hour to 40 minutes for meal.

6 Q You said that you always punch in and punch out. So did  
7 you ever review the record -- did you ever review the monthly  
8 time record?

9 A Yes, I did.

10 Q In what kind of form did you review this record?

11 A Monthly papers that I was given at the end of the month  
12 the hours were listed there.

13 Q Did you ever review the record that show what time you  
14 were in, what time you were out on a daily basis?

15 A I absolutely have looked at it but, basically, it's all  
16 done by computer. I wasn't paying too much attention.

17 Q Did you look at the computer to review this record or on  
18 paper?

19 MS. SPINDLER: Objection.

20 THE COURT: I'll let him answer.

21 A We don't look at computers, we just look at the paper  
22 that we're given at the end of the month.

23 THE COURT: That's fine.

24 Q So when you review this punch in, punch out record on  
25 paper, did you find any description?

*F. Xu - Cross/Ms. You*

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1 THE COURT: He already said he didn't pay too much  
2 attention. Can we continue? You have one more question.

3 MS. YOU: Yes, your Honor.

4 THE COURT: And then do you have one more witness?

5 MS. SPINDLER: No.

6 THE COURT: You're done?

7 MS. SPINDLER: Yes.

8 THE COURT: Okay. Go ahead.

9 EXAMINATION BY

10 MS. YOU:

11 (Continuing.)

12 Q What is your understanding of hourly rate you should the  
13 law?

14 THE COURT: Why is that relevant?

15 MS. SPINDLER: Objection.

16 THE COURT: Go ahead. It's not relevant what his  
17 understanding of law is. He's a worker not an employer.

18 Q What is your current hourly rate of pay?

19 MS. SPINDLER: I also object.

20 THE COURT: I'll allow it.

21 A I really don't know. Whatever the company calculated  
22 every month on the paper this is what I'm being paid for  
23 according to the hours. That's all I know.

24 MS. YOU: Thank you, your Honor.

25 THE COURT: Anybody else have -- thank you very



*F. Xu - Cross/Ms. You*

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1 much, you can step down.

2 (Witness leaves the witness stand.)

3 THE COURT: Nobody else to testify today,  
4 Ms. Spindler?

5 MS. SPINDLER: No, your Honor.

6 THE COURT: Anything further, Ms. You?

7 MS. YOU: No, your Honor.

8 THE COURT: And the Court appreciates everybody's  
9 candor and thank you, Mr. Interpreter. And that concludes our  
10 evidentiary hearing. And I will get the transcript and make  
11 it part of the record and I will do a report for  
12 Judge Weinstein.

13 Anything else that needs to be said on behalf of  
14 plaintiffs today?

15 MS. YOU: No thank you.

16 THE COURT: Anything further, Ms. Spindler, on  
17 behalf of defendant.

18 MS. SPINDLER: No, your Honor.

19 THE COURT: Then this matter is adjourned and  
20 anything that was marked and referred to the Court needs a  
21 copy of. Thank you.

22 (WHEREUPON, this matter was adjourned.)

23

24

\* \* \*

25

*F. Xu - Cross/Ms. You*

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript of the  
record of proceedings in the above-entitled matter.

---

Anthony D. Frisolone, FAPR, RDR, CRR, CRI  
Official Court Reporter

*Anthony D. Frisolone, FAPR, RDR, CRR, CRI, CSR  
Official Court Reporter*

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